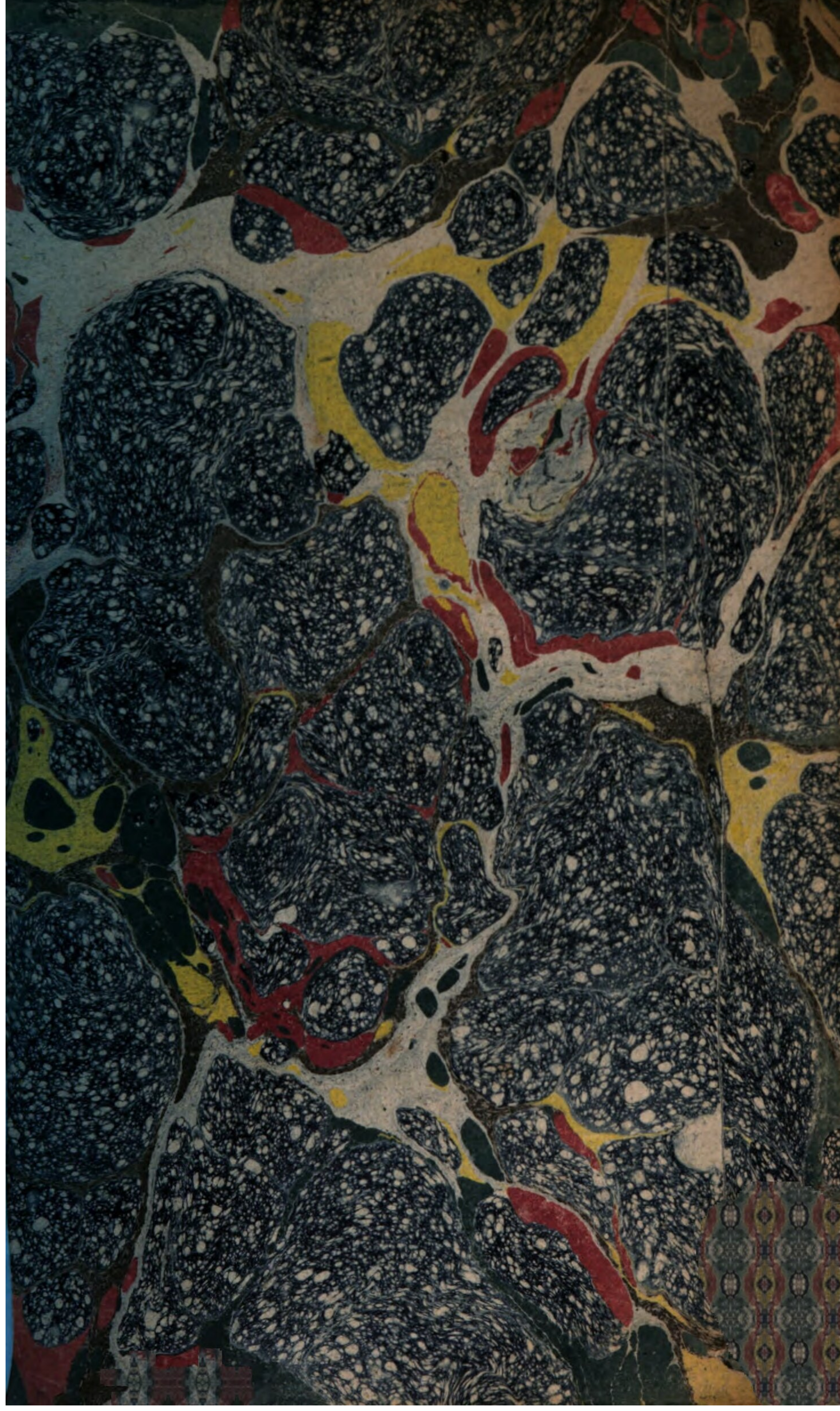




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STATEMENT

PENAL LAWS.

Crim.
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Statement

STATEMENT
OF THE
PENAL LAWS.

Collated

Ansfasen:
Scully

By Councillor Scully

The Printer, Fitzpatrick, was prosecuted
by the Government, and convicted of a libel,
for the footnote page 299.

To Thomas Dromgole Esq^r M: D: L L L.

A

from the Author.
(3 June. 1812.)

STATEMENT
OF THE
PENAL LAWS,
WHICH AGGRIEVE
THE CATHOLICS
OF IRELAND:

With Commentaries.

IN TWO PARTS.

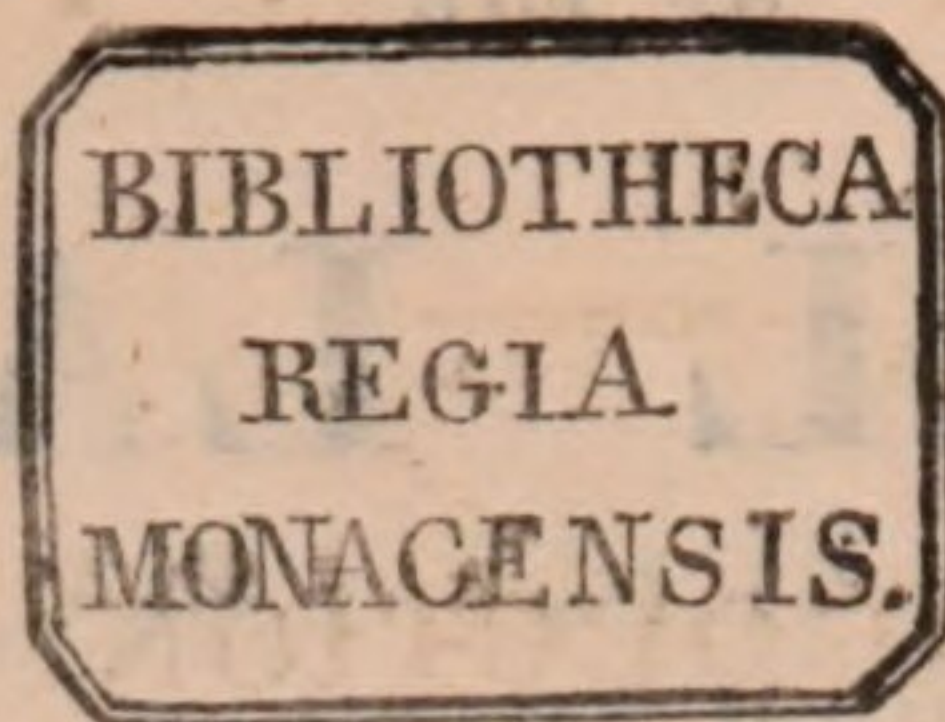
PART I.

The Second Edition—Enlarged.

Peut on connoître le vrai génie d'un peuple opprimé, qui voit sans cesse les chatimens levés sur sa tête, et la violence toujours prête à être soutenue par la politique? Peut on juger de la valeur, quand elle est enchaînée, et sans armes?

CHANVALON VOYAGES, &c.

DUBLIN:
H. FITZPATRICK.
1812.



CONTENTS.

INTRODUCTION.

	<i>Page</i>
I. IMPORTANCE of the Catholics of Ireland	1
their strength, and local advantages	ib.
Numbers: rapidly increasing	2
Their Crime	3
Their punishment	ib.
Mistakes, in under-rating their sufferings	4
Obstacles to a faithful publication	ib.
Public indulgence solicited	6
II. UTILITY of a full statement	7
Renewed discussions probable	8
The Protestant may learn his powers	9
The Catholic may fix the limit of ambition	10
and reconcile himself to his chains	ib.
III. HEADS OF ARRANGEMENT—	
1. Laws affecting Catholic Clergy, Schools, Charities, &c.	11
2. Exclusion from Parliament	ib.
3. ————— Corporate cities & towns	ib.
4. ————— Offices in the Law	ib.
5. ————— the Army and Navy	ib.
6. ————— various other offices	ib.
7. ————— Parish vestries	ib.
8. Denial of use of arms	11
9. ————— due protection in Courts of justice	ib.
10. General mischiefs, insult, opprobrium, &c.	ib.
ORDER OF STATEMENT—	
1. the <i>words</i> of enactment	12
2. the <i>spirit and operation</i>	ib.

CHAP: I.

*“ Of the Laws, which peculiarly affect the
 “ Catholic Clergy, Houses of Worship,
 “ School-Houses, and other Charitable
 “ foundations.”*

	<i>Page.</i>
CATHOLIC CLERGY, long beloved in Ireland -	14
Their Hierarchy, ancient and perfect -	ib.
Their Merits - - - - -	ib.
Their Orders, Ranks and Numbers—	
4 Archbishops	
25 Bishops	
1100 Parish Priests	
800 Curates	
200 to 300 Regular Clergy - - - - -	15
Their useful occupations - - - - -	ib.
An affecting instance - - - - -	ib.
I. “ FELONY OF DEATH, if a Catholic Priest cele- brates marriage between a Protestant and “ Catholic, even inadvertently, unless” &c.	16
First Statute—6 Ann. C. 16.—transportation	ib.
Second Stat.—8 Ann. C. 3.—creating evidence	17
Third Stat.—23 Geo. 2. C. 10.—felony of death	ib.
Absurdities of the Code in this respect -	18
Interdiction continued by Statute of 1792 -	ib.
and Stat. of 1793 - - - - -	ib.
Lord Kilwarden’s opinion - - - - -	19
Case of the King against the Reverend Mr. G. 1801, for marrying, &c. - - - - -	ib.
Dissenting Minister may marry Catholics and Dissenters - - - - -	20
II. “ CATHOLIC PRIESTS punished, for refusing to “ reveal the secrets of Confession.” -	21
————— not contumacious - - - - -	ib.
Imprisonment of Rev. Mr. Gahan, a Catholic Priest - - - - -	ib.
Reasons against this severity - - - - -	22

CONTENTS:

vii

	Page
Canon of General Council, of 1215	23
punishing the Priest, who betrays a Con- fession	ib.
Protestant Canon of 1603—prohibiting the Minister from revealing a Confession	24
Supported by Lord Kenyon's opinion, 1791:	ib.
Case of Du Barré, &c.	ib.
III. "CATHOLIC CLERGY punished, for excommu- nicating unworthy members."	26
Lord Redesdale's mis-statement in 1805	ib.
Real extent of Excommunication—very limited	27
Justification of the practice	29
The Right exercised by Dissenters, Quakers, &c.	30
Doubts, upon the decision against this Right	31
IV. "CATHOLIC CLERGY prevented from officiating to Catholic soldiers and sailors."	32
V. "CATHOLIC CLERGY, not protected in the celebration of Divine Service."	ib.
The Catholics of England secured in this respect—by Engl. Stat. 31 Geo. 3. C. 32.	ib.
VI. "CATHOLIC CLERGY, held liable to Taxes, as Bachelors	33
VII. "OTHER GROUNDS OF COMPLAINT."	ib.
1. Interdicted from endowment	ib.
2. Not recompensed as Chaplains to public Institutions	ib.
Imperfection of the Statute of 1810 relative to Catholic Chaplains of Gaols	34
Mr. Wellesley Pole's oversight, and the mis- chiefs	35
3. Compelled to act as Peace Officers	37
Hostility against the Catholic Hierarchy	39
unwise and unfounded	ib.
The Catholic Hierarchy, useful and honourable	40
Deserving of public favour in Ireland	ib.
VIII. "PERMANENT ENDOWMENT of a Catholic Cler- gyman, House of worship, Schoolhouse, &c. prohibited."	41

	Page
Members of all other Persuasions may create endowments	ib.
The Catholics alone are prohibited	42
LAW OF CHARITIES IN IRELAND	ib.
Its obscurity	ib.
Different from the Law of England	43
English Statutes, not in force in Ireland, viz.	
1 Edw. 6. c. 14. and 9 Geo. 2. c. 36.	ib.
View of the Law of Charities in Ireland	ib.
1. Donations of Lands	ib.
2. ————— of personal property	ib.
Early Mortmain Acts in force in Ireland—	
7 Edw. 1. c. 2. and 15 Rich. 2. c. 15.	ib.
Stat. 10. Char. 1. s. 3. c. 1. ascertaining lawful and charitable purposes	44
Mortmain Acts dispensed with, by further Statutes, in favour of Protestant Charities	ib.
The King authorised to <i>License</i> , 32 Geo. 3. chap. 31.	45
Catholics still remain disabled	ib.
No Catholic Corporation capable of taking Lands	ib.
Catholic Charities, not a good or charitable use	46
A superstitious use defined	47
The Common Law declared to be accordingly	ib.
Hence, the Law in Ireland is the same, as if the Statute of 1 Edw. 6. had been enacted here	ib.
Opinions of Mr. Mitford, and Sir W. Grant	48
————— of Lord Manners, in Ireland	ib.
Case of Commissioners of Charitable Bequests versus Dr. Bray and Dr. Power, April 1809	ib.
Hence, all permanent Donations to Catholic Charities in Ireland are void, whether of Lands or Money	ib.
COMMISSIONERS OF CHARITABLE BEQUESTS	49
Their origin, in 1763, by Stat. 3. Geo. 3. c. 10.	ib.

CONTENTS.

	<i>Page</i>
New modelled in 1800, by Stat. 40. Geo. 3. chap. 75. - - - - -	50
Preamble of this Statute - - - - -	ib.
Authority to sue, in lieu of the Attorney-Ge- neral - - - - -	51
Provisions of this Statute, 40 Geo. 3. c. 75 - -	52
Its Effect in defeating Catholic Charities - -	53
Mode of suing, given to the Commissioners -	54
Active zeal of this Board - - - - -	55
Facilities to charities of Protestants, by Statutes - - - - -	56
Facilities to Dissenters, by the Toleration Act - - - - -	ib.
----- to Jewish Schools, by Lord Thurlow's decision - - - - -	ib.
Inferior objects facilitated by Statutes - -	ib.
Family settlements opened - - - - -	ib.
Instances enumerated - - - - -	57
In Infirmaries, Mills, Bleachgreens, &c. -	ib.
Hardship of denying this permission to the Catholics - - - - -	ib.
Willingness of Catholics to endow, and con- tribute - - - - -	58
Deficiency of Ireland in this particular -	ib.
noticed by every stranger - - - - -	ib.
Miserable pittance allowed to Maynooth Se- minary - - - - -	59
Narrow feeling of the Irish Legislature - -	ib.
Neglect - - - - -	ib.
----- of public Education - - - - -	ib.
----- of improvement of the people at large	ib.

CONTENTS.

CHAP. II.

*“ Of the Laws, which deny to the Catholics
 “ the right of sitting and voting in either
 “ House of Parliament: and herein, of
 “ the Elective Franchise, as enjoyed in
 “ Ireland.”*

	<i>Page</i>
GRIEVOUS SEVERITY of this Exclusion	61
Its Dangers to the Catholics	ib.
Archdeacon Paley's comparison	62
Protest against imputations upon the benignity or kindness of the Protestants	63
Acknowledgment of Protestant liberality and generous feeling	ib.
The intolerant Code alone complained of	64
I. CATHOLICS were continually Members of Parli- ament, in Ireland, until 1692	ib.
Excluded by an English Statute of 1692 extending the Eng. Stat. 30 Car. 2. st. 2. c. 1. to Ireland	ib. 65
Recognized by the Irish Parliament	66
Confirmed in 1782 by Stat. 21 and 22 Geo 3. chap. 48.	ib.
Renewed, in 1793, by Stat. 33 Geo. 3. ch. 21.	67
The Oaths, and Declaration, prescribed by those Statutes, cannot be taken by Catholics	68
II. <i>Extent and operation of this Exclusion</i>	69
1. AS TO THE HOUSE OF PEERS	ib.
The Honours and privileges of this House	70
Nearly 500 Peerages, bestowed within 50 years selected from a favoured community	ib. ib.
Natural claims of the Catholics	71
Vulgar error refuted, that only <i>ten</i> Catholic Peers are aggrieved	73
<i>Ancient Catholic Peers peculiarly so</i>	74

CONTENTS.

xi

Page

Pecuniary pursuits inconsistent with their	
Rank - - - - -	75
Sentiments of the late Lord Petre - -	76
upon the Disgrace thus inflicted - -	ib.
Catholic Peer doubly disqualified - -	ib.
Disabled from voting for Representative Peer	
by the Act of Union, 40 Geo. 3. c. 29. s. 4.	77
III. "AS TO THE HOUSE OF COMMONS"	
Extensive effect of this Exclusion - -	ib.
Qualified Catholics exceed 30,000 - -	78
Personal advantages of a Seat - -	79
Contrast of the excluded Catholic - -	ib.
Benefits enjoyed by <i>all</i> Protestants - -	80
IV. This exclusion depresses <i>every</i> Catholic -	81
Authority of Montesquieu - - -	ib.
New Laws annually enacted against them	82
General stigma and insecurity - -	ib.
Public Advantages of admitting Catholics into	
the Legislature - - - - -	83
They could vindicate themselves - -	ib.
Errors would be avoided - - -	ib.
Calumnies exposed - - - - -	ib.
Illiberal Laws checked - - -	84
Useful Laws promoted - - -	ib.
Incompetent Members silenced - -	85
Irish people better known in Parliament -	ib.
Salutary Reform effected - - -	ib.
Paramount importance of this subject -	86
V. "Of the Elective franchise, as enjoyed by	
"Catholics" - - - - -	ib.
Catholics first disfranchised, in 1727 -	87
Conditionally reinstated, in 1793 - -	ib.
Question upon this Act - - -	ib.
Elective franchise, how impeded - -	88

CHAP. III.

*“Of the Laws, which exclude the Catholics
 “from Offices in Cities and Towns corpo-
 “rate; and, herein, of the Corporate
 “franchise, as enjoyed by the Catholics.”*

	<i>Page</i>
I. PUBLIC MISCHIEFS of all Corporate Immunities	90
Opinion of Dr. Adam Smith	ib.
—— of Archdeacon Paley	91
Corporations in Ireland, peculiarly vexatious	ib.
Catholics first excluded, in 1667	ib.
by Act of Explanation, 17 and 18 Car. 2. chap. 2.	ib.
Lord Lieutenant's Rules, &c. confirmed	ib.
Substance of these Rules, &c.	92
Irish Test Act, 2 Anne, c. 14.	93
Lord Lieutenant not now authorised to dispense	ib.
Irish Stat. 21 and 22 Geo. 3. c. 48. confirming the English Test and Corporation Acts	ib.
Re-enacted in 1793, by Stat. 33 Geo. 3. ch. 21.	ib.
Enumeration of the interdicted Offices	94
II. IN DUBLIN, 248 Offices interdicted	95
In other Corporate towns, 2,300 Offices	ib.
In Dublin, 200 Dependant Offices	ib.
In other Towns, 1,000	96
Total amount 3,748 Offices	ib.
Catholic merchants, artizans, masons, weavers, &c. aggrieved	97
Debased, defrauded, &c.	98
Professional men, Farmers, &c.	ib.
Hence, misery of Irish Corporate towns	99
—— combinations, poverty, &c.	ib.
Idle assertions exposed :	ib.
underrating the degree of Catholic servitude,	ib.
overrating the concessions of 1793.	ib.
Catholic Poor, Artisans, &c. are the most un- protected and injured	100

CONTENTS.

xiii

	Page
They sink in the unfair competition	100
— are teased and worried	101
— are excluded from Juries	ib.
— in continual apprehension	ib.
Comparison of the Catholic condition with that of the Jews	ib.
Statement in Catholic Petition of 1805	102
III. "FREEDOM of Corporate Cities and Towns"	ib.
Great value of this Franchise	103
Elections: Tolls: Trades	ib.
Number of Catholic freemen inconsiderable	104
For what cause	ib.
Catholics disfranchised in 1727	ib.
by Stat. 1 Geo. 2. c. 9.	ib.
Freedom of Corporations not since attainable by Catholics	105
Their Petitions cushioned	ib.
In Dublin, 2,400 Freemen	ib.
— not 100 Catholics of this number	106
The like, in the other Corporations	ib.
<i>In fact and practice</i> , the Catholics almost wholly excluded	ib.
IV. UNBOUNDED liberality of the Legislature towards all, save the Catholics	ib.
French, Dutch, Genevese, Jews and Atheists, admitted	ib.
Several Statutes to this effect from 1664 to 1796, cited	107
Unsuccessful proposal in Irish Parliament of 1793 to extend the right to Catholics	ib.
Moved by Mr. Justice Osborne	ib.
Supported by Mr. John Bagwell	ib.
Protestant aliens, naturalized, by Statute of 1718	108
Further Statute of 1780	ib.
Liberal Preamble to an illiberal Statute	ib.
Statutes of 1784 and 1796	109
Naturalizing <i>all</i> foreigners, excepting only Catholics	ib.

	<i>Page</i>
Present System - - - -	109
Foreigners preferred to Natives - -	110
Infidels to Catholics - - -	ib.
Edmund Burke's censure of this System -	ib.
terms it a <i>civil servitude</i> - -	ib.

CHAP. IV.

" The Catholics, not eligible to Offices, connected with the Profession and Administration of the Laws."

I. LIBERAL CHARACTER of the Irish Bar -	111
This Exclusion not desired by the Protestant Bar - - - -	ib.
Enumeration of Law Offices, expressly interdicted to Catholics - - -	113
The number, 224 - - - -	ib.
Also, 25 Commissioners of Bankruptcy, and 31 Chairmen of Counties - -	ib.
Ecclesiastical Offices - - -	114
Disabled, as Advocates - - -	ib.
Case of Dr. M. Lynch, 1804 - - -	ib.
Proctors, Public Notaries, &c. - - -	ib.
Case of Mr. J. Callaghan, Chanc'y. 1803--1807	115
II. SUBORDINATE OFFICES, interdicted, -	ib.
Total Number, about 1,000 - - -	ib.
160 Offices interdicted to Barristers - -	116
1,300 Offices interdicted to Attornies, &c. -	ib.
Testimony of Archdeacon Paley - - -	117

CHAP. V.

" The Catholics disqualified from Offices in the Army and Navy, and disturbed in exercising their Religion."

I. INCORPORATION of the two Establishments, in 1800 - - - -	118
Effects of the Act of Union - - - -	ib.

CONTENTS.

xv

	<i>Page</i>
False hopes then held out - - -	119
Terms of English Test Act, 25 Cha's. 2. ch. 2.	ib,
A similar Act, in Ireland, but modified in 1793	120
Disqualification, by English Laws, remains in force - - - - -	ib,
Condition of Irish Officers, removed to English station - - - - -	ib,
Promises made in 1793 to the Irish Parliament; not fulfilled - - - - -	121
Instanced, in Secretary Hobart (now Earl of Buckinghamshire) and Earl of Clare -	ib,
Inconsistency of this Military Code - -	ib,
Anticipated in 1793 by Patrick Duigenan -	ib,
His exulting prophecy, realized - -	122
The Statute of 1793, a mere decoy - -	123
Prudent Catholics do not prefer the Military profession - - - - -	ib,
Memorable observation in Livy - - -	ib,
Total of these Offices, exceeds 20,000 -	124
II. CONSEQUENTIAL INJURY of this Exclusion -	ib-
Hostility against Catholics encouraged -	ib,
Military and Naval Officers prejudiced -	ib,
Subordinate situations monopolized - -	125
Hence, apathy of the Catholics respecting Military and Naval events - - -	ib,
III. EXERCISE of the Catholic Religion checked, in Army and Navy - - - - -	126
The same Law in England and Ireland herein	ib,
Terms of the Mutiny Act - - - -	ib,
— of the Articles of War, 1811 - -	127
Hence, the Catholics are compellable to fre- quent Protestant places of worship - -	ib,
Extent of this liability - - - -	128
Militating against the Catholic tenets - -	ib,
Punishment upon Catholics offending herein	129
<i>Discretionary</i> in Court Martial, by Sect. 24.	ib,
Punishment of Death, by Mutiny Act. ch. 8. s. 1. - - - - -	130
IV. THUS the Catholic Worship is coerced -	131
Notoriety of this fact - - - -	ib,

	<i>Page</i>
In America, Portugal, Sicily, Ireland, &c.	131
Like coercion in the Navy	ib.
Silence of Irish Statutes of 1792 and 1793, as to security	ib.
Military orders precarious	132
———— may be recalled at pleasure	ib.
———— no legal protection	ib.
Remedy may be stifled	ib.
Natural reflections of a Catholic Soldier or Sailor	ib.

CHAP. VI.

*“ The Catholics disqualified from various
“ other Offices, not already classed.”*

I.	ENUMERATION of additional Offices interdicted	134
	Their number, 261	135
	Interdiction, re-enacted in 1793	ib.
	Subordinate Offices, interdicted	136
	Deputies, Agents, &c.	ib.
	Post Office Establishment	ib.
	Inconsistency of this Penal Code	137
	Imperfection of the Statute of 1793	ib.
II.	DISQUALIFICATION from Office, a grievous punishment	138
	Opinion of Lord Chancellor Hardwicke	ib.
	———— of Lord Somers	135*
	———— the House of Peers	ib.
	Same punishment as for Bribery, Corruption, Apostacy, &c.	ib.
	Perjury less severely punished	ib.
	This treatment ungenerous	136*
	———— unwarrantable	ib.
	Catholic Religion entitled to respect	ib.
	Testimony of the Protestant Bishop of Down	ib.
	His eulogium on the Catholic Religion	137*
	Its antiquity, merits, &c.	ib.

CONTENTS.

PART II.

CHAP. VII.

Laws—which disqualify the Catholics from voting at Parish Vestries for levying money to build, repair, or rebuild Churches—or for demising or disposing of any Parish Income—or for the Salary of the Parish Clerk—or at the Election of any Churchwarden.

	<i>Page</i>
I. NATURE of these prohibitions	139
Parish rates—long complained of	140
———payable by <i>occupying tenants alone</i>	ib.
Peculiar Tenures of land in Ireland	ib.
Occupying Tenants, mostly Catholics	143
II. PARISH VESTRY, defined	144
Catholics excluded, in 1725	145
Powers of a Vestry—to impose taxes, &c. . . .	ib.
Forms of applotment	147
III. SEVERE operation—against Catholics	149
Grievous Land-tax—an instance	151
IV. VESTRIES for demising Parish income	
for Clerk's salary	
for Churchwardens election	154
Catholics excluded, in 1785	ib.
Parish income monopolized	156

	<i>Page</i>
Clerk's salary may be withheld - -	}
Churchwarden—how elected - -	155
Inconsistency herein - -	}
Hardships - - - -	156
Duties of Churchwarden—numerous - -	157
V. FURTHER MISCHIEFS—to Catholics - -	160
VI. WHETHER CHURCH RATES <i>ought</i> to be thus levied - - - -	162
Other funds pointed out—£200,000 - -	164
Church rates grievous to farmers, cottagers, &c.	166
VII. EXAMPLE of Church government, in Jamaica	168
Its wisdom and moderation	
“ Edwards's West Indies ”—cited - -	ib.
No infringement upon the rights of the Church of Ireland, sought or contended for -	170

CHAP. VIII.

Laws, which forbid the Catholics to have or use Arms—for the defence of themselves, their families, and dwellings---upon equal terms with the Protestants.

	<i>Page.</i>
I. EVERY CITIZEN, in theory, entitled to have Arms	172
The Catholics alone disqualified, 1695 -	173
Statutes and penalties herein - -	ib.
II. HOW FAR MITIGATED—in 1793 - -	176
Hardships still remaining - - -	179
III. ADVANTAGES enjoyed by Protestants -	180
Armed corps, filled with them - -	}
Catholics excluded - -	183
Protestants screened from Militia ballot -	}
IV. ARMS AND INSURRECTION ACTS - -	184
V. SEVERE OPERATION of these prohibitions -	188
Catholics endangered and defenceless -	}
——— liable to pillory and whipping -	189
——— cottagers, peasants, &c. exposed to outrages - - - -	}

CONTENTS.

xix

	<i>Page</i>
Anarchy in the North of Ireland - -	189
Dr. S. Johnson's indignant exclamation -	ib.
No other people equally aggrieved - -	190
Russia—Turkey—S. America - -	ib.
Slaves in the West Indies—less severely treated	191
Dangers of this merciless system - -	ib.
Livy's awful warning - - -	192

CHAP. IX.

Laws—which aggrieve the Catholics, touching the Administration of Justice, and Trials by Jury.

I. ADMINISTRATION OF JUSTICE—a sacred duty	193
Blackstone's sentiments - - -	ib.
II. JUDICIAL Situations in Ireland - -	195
Catholics incapacitated - - -	196
Judicial stations, occupied by Protestants .	ib.
not fairly selected - - -	197
Causes of injustice - - -	ib.
Injurious operation - - -	200
Lord Chancellor—Judges, &c.—their powers	201
Vicars General of Dioceses - - -	205
Their Courts characterized by Mr. Grattan -	ib.
by Earl of Kingston - - -	209
III. Trial by Jury—not impartial - - -	210
Its boasted excellence - - -	211
Grand Juries—and Petty Juries - - -	212
IV. Juries unfairly selected - - -	213
The causes - - -	214
Hostile practices, in this respect - - -	216
V. Injurious consequences to Catholics - -	219
As to Grand Juries - - -	ib.
— Petty Juries - - -	222
Practices herein - - -	226
In criminal cases - - -	227
In civil cases - - -	233
Expostulation of Henry Flood - - -	235

	<i>Page</i>
Source of this injustice—in <i>the Laws alone</i>	236
Montesquieu's arguments	238

CHAP. X.

Of other Penalties and Disabilities, not already classed---and of the general Injury and Humiliation, inflicted upon the Catholics.

1. Penalties—for neglecting to take the Oaths of 1773 and 1793	241
2. Penal Statutes—not already specified	ib.
3. Penal Clauses—of doubtful construction	ib.
4. Education—of Catholics	ib.
5. Guardianship	ib.
6. Marriage	ib.
7. Medical Profession	ib.
8. Right of Advowsons	ib.
9. Property—insecure in Ireland	ib.
10. Commercial and trading Catholics—how aggrieved	ib.
11. Humiliation—inflicted upon Catholics	ib.
12. Hostility against them—sanctioned and encouraged	ib.
I. PENALTIES—for neglecting to take the Oaths of 1773 and 1793	
History and nature of these Oaths	242
Old Popery Code—conditionally mitigated	244
Relaxing Statutes—why enacted—their History	ib.
Severe Consequences, to a Catholic neglecting to qualify, &c.	250
No indulgence to infirmity, ignorance, &c.	251
II. PENAL STATUTES—not already specified	252
Keeping Catholic Holydays—penal	ib.
Burying—except in Protestant churchyards	253
Meetings and pilgrimages at Holy Wells, &c.	ib.
Catholic pictures, crosses, inscriptions, &c.	254
Folly of these prohibitions	255

	<i>Page</i>
II. OBTAINING any written or printed paper from the Bishop of Rome, &c.— <i>High Treason</i>	256
Impolicy of this rigour - - -	257
An example, in Sir J. Hippesley, 1794 -	ib.
Expostulation of his Holiness, Pius VII. with a Protestant Nobleman—1803 - -	258
III. DOUBTFUL STATUTES - - -	259
Respecting Bank Directors—Constables— Schools—Guardians—Catholic Clergy—Re- ligious conversion—Schoolmasters—Arms— Relapsed Catholics—Convention Act -	ib.
Indiscreet prosecutions under the Convention Act - - - - -	261
IV. EDUCATION of Catholics	
Importance of this subject - - -	262
<i>Public</i> Education neglected - - -	263
Protestant seminaries—Dublin College, &c.	264
Charter Schools—described - - -	265
Opinions of Howard, and Sir J. Fitzpatrick	269
No <i>public</i> Education of the Catholic people	271
Legal discouragements - - - -	ib.
Maynooth seminary for Clergy—inadequate	272
<i>Private</i> Education of Catholics—barely tolerated	273
Catholics—how received in Dublin College	274
Mischiefs of this illiberality - -	ib.
Eagerness of the peasantry for instruction	275
Mr. Newenham's admirable publications -	ib.
Catholic <i>unendowed</i> schools - - -	276
Extract from Mr. Newenham's work - -	277
Catholic Clergy fully vindicated herein -	278
V. GUARDIANSHIP of Catholic children -	279
Statutes—upon this subject - - -	280
Doubts, stated - - - -	282
Catholic Guardians rejected - - -	ib.
Case of Lyons, 1804—before Lord Redesdale	ib.
Difficulties imposed upon Catholic Parents -	285
VI. MARRIAGES of Catholics - - -	286
Marriages, by Catholic Priests, still valid -	ib.

	<i>Page</i>
Punishment—if marrying Protestants and Catholics, &c. - - - - -	ib
Innovations deprecated—in other respects -	288
Marriages of Catholics in England—how regulated - - - - -	ib,
Marriage Code in Ireland, clear and intelligible	289
VII. MEDICAL PROFESSION—as exercised by Catholics - - - - -	ib
Interdiction—by English Statute— <i>not enacted in Ireland</i> - - - - -	290
College of Physicians in Dublin—its History	ib,
Its Charter not recognized by the Legislature	291
Its powers - - - - -	ib.
This College not liberal towards Catholics	292
By-law—directed against Catholic Physicians	ib,
Effects of this By-law - - - - -	293
Catholic Physicians—Surgeons—Apothecaries—excluded from Medical appointments -	295
Mischiefs of these exclusions - - - - -	297
VIII. RIGHTS OF PRESENTATION TO BENEFICES	297
These rights, purely temporal - - - - -	298
Interdicted to Catholics—by 2 Anne, c. 6.	299
Question, as to Protestant trustees - - - - -	ib,
This interdiction unreasonable, - - - - -	ib,
Superfluous as a guarantee - - - - -	300
Public sales of these rights - - - - -	ib.
“ Aliens,” more privileged than Catholics -	301
IX. CATHOLIC PROPERTY INSECURE	
Considerations in the choice of a residence	302
Security of property necessary	
Discouragements against settling in Ireland	
Emigrations—the causes - - - - -	303
Perils to property—in Ireland	
Loss of capital—through the Penal Laws -	304
Peculiar Burdens—affecting Catholic Property	305
Insecurity—thro’ exclusion from Parliament	
———thro’ corporate towns, &c. -	} 306
———Parish rates - - - - -	
———County Cesses - - - - -	

	Page
Insecurity—thro' Imperfection of Justice -	} 307
——— omitting to take Oaths -	
——— Bills of Discovery -	
Penal Laws, severely construed	
Dangers of this construction - -	309
X. COMMERCIAL AND TRADING CATHOLICS—	
aggrieved - - - -	310
Liberty, and security of property—necessary	
to Commerce - - - -	311
Hardships, upon Catholic merchants and traders	312
Monopoly, to their prejudice - -	ib.
1. Exclusion from Parliament—highly injurious	
to Catholic Merchants and Traders -	313
Instances - - - -	ib.
Parliamentary influence monopolized—to the	
prejudice of Catholic Merchants, &c. -	314
2. Protestant Corporations—injurious -	ib.
Catholic Merchants, artisans, &c.—aggrieved	315
Dublin Corporation—lucrative contracts -	316
Oppression of Catholic Traders	
Instances in 1797—9	
Acts of Indemnity - - - -	317
Dangers impending over Catholic Merchants	
and Tradesmen - - - -	318
3. BANK DIRECTORS.	
Bank of Ireland—established 1782 -	ib.
Charter—excluding Catholics - -	ib.
Statute of 1793—how erroneous - -	319
Opinions of Messrs. Ponsonby, Wolfe, and	
Burston - - - -	321
Petition of Catholic Merchants, &c.—1808	324
Lord Grenville's argument - -	ib.
Lord Erskine—and Lord Liverpool -	325
This exclusion—how injurious - -	326
Illustrated by Mr. Edw. Byrne's observation	327
4. GENERAL MISCHIEFS to trade and credit	ib.
English capitalists refuse to settle in Ireland	328
Mr. Grattan's opinions—verified - -	ib.
His ridicule of the predictions, at the time	
of the Union - - - -	ib.

	<i>Page</i>
XI. } HUMILIATION OF THE CATHOLICS -	329
XII. } HOSTILITY AGAINST THEM -	ib.
<i>Penal Code—goadings and exasperating</i> -	ib.
1. Imputations of Superstition and Idolatry -	ib.
Declaration against the Mass, &c. &c. -	ib.
2. Imputations—of falsehood; disloyalty, and perjury, &c. - - - - -	330
Illiberal reproaches—against Catholics -	ib.
Repelled by ample testimony—of <i>Two</i> <i>Millions</i> of Catholics - - - - -	331
Hardships—now imposed upon Catholics -	ib.
Defamation, &c. - - - - -	333
3. <i>Fiction</i> of Law—that no Catholic is <i>pre-</i> <i>sumed</i> to exist in Ireland - - - - -	ib.
Lord Chancellor Bowes—Chief Justice Robinson - - - - -	334
Mischiefs of this Fiction - - - - -	ib.
4. Early prejudices—inculcated against Ca- tholics - - - - -	ib.
5. Hostility of persons in power—Justices, &c.	336
6. Hostile Confederacies	
“Protestant Boys,” “Orange Lodges,” &c.	337
Their nature - - - - -	ib.
— variable policy - - - - -	338
— the Boy holding the angry Wolf -	ib.
Majority of Protestants—liberal -	339
Irish administration inflames prejudices -	ib.
7. Refusals to employ Catholic Tradesmen, Servants, &c. - - - - -	ib.
Instances - - - - -	ib.
Mischiefs herein - - - - -	340
8. General view of this humiliation and Hos- tility - - - - -	340
Described by W. Parnell, Esq.	
“ <i>Historical Apology for the Irish Catholics</i> ”	
1807 - - - - -	ib.
Character of that Tract - - - - -	ib.
Extract from the “ <i>Historical Apology</i> ,” &c.	342

CHAP. XI.

Retrospect of this Penal Code.

	<i>Page.</i>
1. COMPLETE SUBJECTION of Catholics to Protestants - - - -	350
2. In the State—Taxation—Offices—Army and Navy - - - -	ib.
3. In Cities, towns, &c. - - - -	351
4. In Parishes—Monopoly of power - - - -	ib.
Land-Tax upon Catholics - - - -	
Parish Offices imposed - - - -	
Excluded from Parish Vestries - - - -	352
Compelled to supply Parish income - - - -	
5. Right of having Arms, circumscribed - - - -	
Protestants subject to <i>no</i> restraint herein - - - -	
Outrages against Catholics, by armed Protestants - - - -	ib.
6. Administration of Justice, how affected - - - -	
Whether Catholics can rely upon it? - - - -	
7. Opprobrious imputations preserved through Qualification Oaths, &c. - - - -	
8. Catholics excluded from various Offices - - - -	
Their property unjustly burdened—and insecure - - - -	353
Their Clergy depressed and insulted - - - -	
Charities—Education—Poor, &c. - - - -	
9. Subordinate clauses—vexatious and irritating - - - -	354
10. The Catholics branded with opprobrium and scorn—stigmatized—defenceless—exposed to oppression - - - -	ib.

CHAP. XII.

General Observations upon this Penal Code.

I. DISSENTIONS—excited by it - - - -	355
Catholics compelled to Petition - - - -	ib.
Government promotes a resistance - - - -	
Consequent agitation—accusations, &c. - - - -	356
Contrivances—to prevent Catholic Petitions - - - -	
State Prosecutions - - - -	357

	<i>Page</i>
Attempts to drown Catholic complaints	
Slanders promoted - - - - -	ib.
II. "IGNORANCE and Errors, prolonged - - - - -	358
Reconciliation annually more difficult - - - - -	ib.
Misunderstandings between Great Britain and Ireland - - - - -	ib.
Lord Lieutenants, Chancellors, Secretaries, &c. misled, upon coming from England - - - - -	359
Lord Redesdale's Letters, in 1803 - - - - -	
D. of Richmond's Proclamation, 31 July, 1811	
Lord Manners, Chancellor - - - - -	360
III. " <i>Catholic Peasantry, Poor, &c. aggrieved</i> " - - - - -	ib.
Petitions for relief—not frivolous	
The Penal Code—in full vigour	
No connivance, or relaxation, permitted - - - - -	ib.
Virulence against Catholics of <i>all</i> ranks - - - - -	362
Eagerness of all Catholics for <i>complete</i> relief - - - - -	363
Their time and attention, consumed by it - - - - -	ib.
Hardship of this necessity - - - - -	ib.
IV. "APPEAL to Reason and Feeling, on behalf of "the Irish Catholics" - - - - -	364
Picture of their sufferings and humiliation - - - - -	ib.
Liberty of Conscience - - - - -	
Political Liberty - - - - -	
Whether enjoyed by the Catholics? - - - - -	} 365
RELIGIOUS LIBERTY— - - - -	
Extinction of enmities— - - - -	
Restoration of concord— - - - -	} 366
form the scope and <i>real purpose</i> of all Peti- tions of the IRISH CATHOLICS - - - - -	

APPENDIX.

OATH—prescribed to the Catholics of Ireland in 1773, by Statute 13 and 14 Geo. 3. c. 35.	367
DECLARATION and OATH—prescribed in 1793—by Statute 33 Geo. 3. c. 21.	369
Condition—annexed to the last-mentioned Sta- tute (1793) - - - - -	370

ADVERTISEMENT.

"CATHOLICS."

1. THIS Appellation is used throughout the following statement, for the sake of brevity, not of controversy. The *legal* appellation, at this day, is that of "*Roman Catholics.*" Should this compound epithet appear to involve a solecism in language, the Legislature alone, not the People, must be responsible for the impropriety.

We find indeed, that the Legislature has varied curiously in this particular. From the time of the introduction of the Protestant Creed into Ireland (temp: Elizabeth) the appellation, used by the Statutes, appears to have been merely that of "*persons in communion with the Church of Rome.*" In the commencement of the Reign of William the 3d, viz. 1692—the Catholics were expelled from the Irish Parliament. A more hostile and contemptuous phraseology then appeared. From that time to 1792, the Statutes describe them as "*Papists,*" "*Popish People,*" &c. At length, in 1793 (33 Geo. 3. Chap. 21.) they attained the title of "*Papists, or persons professing the Popish or ROMAN CATHOLIC Religion.*"

2. However, the later Statutes drop the harsher phrases altogether, and term them "*Roman Catholics*" only.

The reproachful epithets of "*Papist,*" "*Popish,*" "*Romish,*" "*Romanist,*" &c. &c.—are no longer applied to them, by any gentleman or scholar.

Corporation and Test Acts.

1. THE English Corporation Act, 13 Car. 2. st. 2. c. 1. agrees in substance with the Rules and Orders, confirmed by the Irish Statutes of the 17 and 18 Car. 2. ch. 2. and 25 Car 2. (See post. p. 22, &c.)

2. The English Test act, 25 Car. 2. c. 2—relating to qualifications for Office, &c. civil and military, agrees with the Irish Test Acts, 2. Anne, c. 6. and c. 14. s. 2.—and 9 Anne, ch. 6. s. 18. (post 93. 113. 120.)

See Dr. Arthur
Brown's Eccl.
Law, 47.

3. So much of the Irish Corporation Act, as required the Sacramental Test, and was therefore disrelished by Protestant Dissenters, was repealed in Ireland in 1780, (as to them only) by the Statute 19 and 20 Geo. 3. ch. 6.

4. The Corporation Act remains in full force against the Catholics, in Ireland as well as in England. The Test Act, by the effect of the Irish Statutes of 1792 and 1793, has been infringed, and "*pro tanto*," repealed. Its principle has certainly been surrendered, and is no longer sacred and inviolable. But we lament to say, that its jealous spirit continues—and that, in substance and practice, it operates with unabated violence against the Catholics of Ireland. This is owing, partly to the many important exceptions reserved by the Statute of 1793; partly to the numerous Penal clauses unnoticed by that Statute; and partly to the Anti-Catholic principles of the present Administration—In the following "Statement," these causes shall be more fully unfolded.

INTRODUCTION.

SECTION I.

WHOEVER would rightly understand the actual State of IRELAND, ought principally to inform himself of the peculiar condition of its Catholic Inhabitants.

In every point of view, they form a truly important subject of inquiry and serious reflection. Importance of the Irish Catholics. Strength, industry, energy, and all the characteristic virtues which bestow value upon a People, are theirs in an eminent degree. In Numbers Their Numbers they have prodigiously increased; and they are continually increasing beyond example in any other country. Already they compose the far greater part of the trading and manufacturing interests. The Agricultural class, so powerful and influential throughout Ireland,---the landholders, farmers, peasantry---are almost universally Catholic. They occupy the most valuable positions, Local advantages. whether for commercial or for military purposes; the boldest Coasts, most navigable Rivers, and most tenable passes; the most fertile Districts, the

SECT. I. richest supplies of forage, the readiest means of attack or defence. The Geographical advantages of Ireland are well known. Cork, Waterford, Kerry, Galway, Mayo, &c. &c. all Catholic Counties, attest the correctness of our assertions.

Their Numbers
ten to one.

Numerically, the Catholics constitute full five-sixth parts of the Irish Population; and, compared with the Members of the Established Church, they are in the proportion of at least **TEN TO ONE**; a proportion, be it observed, rapidly advancing of late years. In every City, Town, and Village, their numbers more or less preponderate. The open Country is in their almost exclusive occupation. The gross population of Ireland, at this day, is moderately estimated by the most competent judges at Five Millions of Inhabitants. Of this number we may, without exaggeration, state the Catholics as amounting to 4,200,000; that is, equal to one-half of the united population of England and Wales.

See "Newen-
ham upon the
"Population of
"Ireland," pas-
sim.

4,200,000.

In fine, the Catholics are emphatically the **PEOPLE OF IRELAND**.

Their Crime.

2. Such is the class of Men, faithful, generous, and deserving,---suffering for the misfortunes of their Ancestors, yet nobly steadfast to their venerated Religion.---Such are the **PEOPLE**, to whom the British Laws deny Liberty of Conscience. Their sole Crime is that of adher-

ing fondly to the Religion of their choice---of obey-
 ing the sacred dictates of private judgment: and this,
 not by overturning any established System, or by
 turbulent innovations---but by preserving, pure and
 inviolate, the holy doctrines handed down to them
 by their Forefathers, confirmed by ages of suf-
 fering and calamity, and now consecrated to their
 love and respect by an historical identity with the
 honour and fair fame of Ireland, during nearly
 fourteen Centuries.

SECT. I.

Constancy in
Faith.

For this crime---of worshipping their Creator,
 in the form practised throughout the greater part
 of Christendom, the Catholics of Ireland are the
 prostrate victims of a teasing, intolerant Code of
 laws ; rendering them, in effect, almost " Aliens"
 in their native Land.

Their Punish-
ment.

3. To expose the nature and extent
 of this Code, and to develope its severe operation
 upon the People of Ireland, is our present purpose.
 An acquaintance with this subject will, in fact,
 serve as the surest clue for investigating many local
 anomalies, for unravelling apparent difficulties,
 and tracing the true causes of the numerous Evils,
 which deform the condition, and impede the pros-
 perity---of Ireland.

Their Case ne-
cessary to be
understood.

To misapprehensions of the real extent of this
 Code are attributable the errors and mistatements,
 which have been so frequently adopted by public

Mistakes of
public Men.

SECT. I. men of all parties, in discussing the case of the Irish Catholics. Hence, we have seen eminent Statesmen, Orators and Writers, however favourably inclined towards the abstract principle of Catholic Freedom, occasionally mistaking the extent of this penal system, miscalculating its daily and necessary operation, and inadvertently underrating the degree of impatience and poignant anguish, universally suffered by the Irish People under its baneful influence. The truth of this observation every well-informed Catholic has had ample occasion to observe and deplore.

Misapprehensions now prevalent.

Catholic sufferings under-rated.

But these misapprehensions cease to excite surprise, when we consider, not merely the uncommon variety and multitude of these Penal enactments, which render an enumeration difficult, but also the heavy discouragements, existing against any publication of the "Case of the Catholics of Ireland, under the existing Laws."

Obstacles to publication.

Danger attending it.

4. For he who would unfold, without reserve, the various grievances of this injured people, or publicly recommend their Case to the justice and good sense of their fellow subjects, undertakes but a cheerless and hazardous task. Not only no praise, or gratitude, or reward of any kind, awaits his performance, however arduous or correct; not only is the door of advancement closed, and the path of honourable ambition interdicted to his

hopes ; but he becomes instantly exposed to that SECT. I.
jealous irritability of power, and that unrelenting
personal proscription, which necessarily flow from Dangers at-
tending publi-
cation,
the very temper and inherent nature of this Penal
Code. Such has been the experience of many
years in Ireland. An unguarded phrase may be
transplanted into the defamatory pages of some
hireling or expectant Pamphleteer : an accidental
ambiguity of expression may be wrested or mis-
quoted, so as to make the “better Sense appear
“the worse.” It may be garbled and tortured
into constructive disaffection, Sedition, or even
Treason ; and his very proscribers and persecutors
may become, directly or mediately, the Judges of
their own perverse constructions. In such a coun- A. D. 1811.
try as Ireland is, under present circumstances, the
iron arm of Power, if once uplifted against such a
writer, must speedily and effectually crush him.
A barren popularity may attend the victim ; but
its transient sound will neither rouse the zeal of
friends, nor allay the vengeance of exulting In-
tolerance.

5. Such, partly, are the obstacles to a
free and faithful Publication of this nature ;---These
may sufficiently account for the obscurity in which
this subject has remained. Fully aware, however, as
we are, of the extent and variety of these Discou-
ragements, we shall proceed to the performance of

SECT. I. this useful and important work. We are impelled to do so by a deep conviction of its necessity, and by an over-ruling sense of the duty which we owe to our Country, and to the age in which we live.

Public indul-
gence solicited

If the Difficulties to be encountered are formidable, if prepossessions against the Catholic People are strong and various, it behoves us the more earnestly to deprecate unfair criticism---to disclaim all forced interpretation of our Language---to soften the asperities of well-meaning opponents, to sue for the indulgence of the candid and considerate, and to invite the liberal and patriotic aid of all, in the discharge of this public duty. All this we do in the sincerity of our hearts. The expectation of being useful to our Country is our sole support and incitement. But we are not altogether without some hope, for the sake of Ireland and of human nature, that an attempt of this kind, prompted by upright and benevolent motives, and guided, as we trust, by truth and temperance, may possibly experience a candid reception from the public at large, and ultimately obtain the approbation and effectual support of the honest, the generous, and the well-educated of all Persuasions throughout the Empire.

SECTION II.

SECT. II.

UTILITY AND REASONABLENESS OF
THIS STATEMENT.

1. A FULL and distinct “Statement of the Case of the Catholics of Ireland, under the existing Penal Laws,” has been long a public *desideratum* to literary men of every class.

2. The Lawyer, however diligent and erudite, To the Lawyer. is at present destitute of the means of ready reference upon a branch of his Science, which must frequently fall within his consideration; involving as it naturally does, the Rights and Liberties, Properties and Lives, of the Catholic Population.

3. The Philosopher, contemplating the nature The Philosopher. of this unexampled servitude, its causes, principles, and present enormous extent, will discover a boundless range of instructive occupation for the human mind. He will see new instances of the abuse of Power, the force of Prejudice, the folly of Religious Intolerance, the honourable constancy of a suffering People; but he may hesitate to admit, that the Age, in which four Millions of Irish Catholics are doomed to the horrors of Religious Exclusion, can be justly deemed an “Enlightened Age.”

4. More especially the Legislator or the States-The Legislator. man will find, in the moral and political tendency

SECT. II. of this Anti-Catholic Code, abundant matter of profound study, of pressing importance to the general weal, and of peculiarly urgent claim upon his strenuous exertions in the discharge of his public duty. Nay, he is bound by duty to his own reputation, as well as by every obligation to his Country and to Society, to bestow his most

Probability of renewed and continual discussions in Parliament. deliberate attention upon this subject.---His Decision will be frequently appealed to. For it is but reasonable to presume, from the immense numbers of the Catholics, their bold and unbroken spirit, their increasing intelligence, natural resources, and interesting position, and, above all, from the intrinsic Justice of their Cause, that they will not submit, in ignoble silence, to a continuance of their Degradation. On the contrary, their condition and their complaints must continually come before the Legislature ; and, until fully redressed, must produce renewed, anxious, and solemn discussions.

This publication instructive to Adversaries, as well as Advocates.

5. To the Adversary, then, not less than to the Advocate of Catholic freedom, a correct view of this Penal Code must prove useful. Without it no argument upon the subject can be forcibly applied, or effectually repelled : and every discussion must exhibit, as heretofore, numerous instances of argument without efficacy, and of assertion without proof. But, surely, if Freedom is eventually to be restored to the Ca-

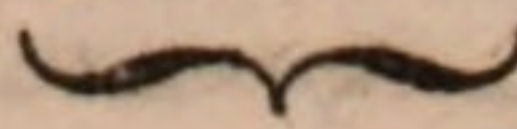
tholics, the provident Legislator ought to be apprized, distinctly and accurately, of all the restraints and penalties now in force against them; what Laws ought to be abrogated, and what Laws enacted, in order to render that Freedom effectual and permanently secure.

If, on the other hand, Freedom is to be still withheld from the Catholics, if they are doomed to drag on the burden of their chains for some indefinite period of years, to submit to bondage as their *permanent Destiny*, and to look for Redemption only in the visions of a gloomy futurity; even in this supposed alternative, no well-instructed Protestant should remain imperfectly acquainted with so valuable a portion of the Laws, as that which defines his personal ascendancy, privileges, and powers over the millions of his Catholic fellow-countrymen. It may afford the means, as well of satisfying a natural curiosity touching the fate of his Vassal Neighbours, as of learning the enormous powers entrusted to his exercise over them. Doubtless, too, it may awaken his compassion, and plead some excuse for occasional Irregularities, which bad Laws invariably provoke. Whether he desire the Abolition or the maintenance of this Anti-Catholic Code, it cannot be deemed improper to submit to his impartial consideration a Summary of its Enactments, Extent

SECT. II.

Interesting to
both Catholics
and Protestants.

The Protestant
should learn
the extent of
his Dominion.

SECT. II. and Operation in Ireland. His Judgment and
 Feelings may pronounce upon them, but his Authority and Privileges remain untouched.

Consolation to
the suffering
Catholic.

To the Catholic, also, it may prove a salutary though a sad consolation, to be enabled to fix the precise limit of his Hopes, and the landmark of his justifiable ambition, under the Laws and Constitution of these realms. He may thus avoid the chagrin of disappointed projects, and reconcile his mind and those of his children, betimes, to the humiliating arrangements and the settled exclusion, which the Laws ordain. Shielded by such salutary warning against the delusive hope of Religious Liberty, he and his family may creep through Life with due submission, and meekly bow their heads to the dust, before the established dominion of those more fortunate Christians, who profess the Protestant faith,

SECTION III,

SECT. III.

ARRANGEMENT.

- I. We shall treat of those Laws, which pecu-^{Heads,}
 liarily affect the *Catholic Clergy*, Houses of Wor-^{1.}
 ship, School-houses, and other Charitable Foun-^{Catholic Cler-}
 dations. ^{gy, Worship,}
^{&c.}
- II. Of the Exclusion of the Catholics, from the ^{2.}
Legislature. ^{Legislature.}
- III. From Offices, &c. in *Corporate Cities* and ^{3.}
 Towns. ^{Corporations,}
- IV. From Offices relating to the *Administra-*^{4.}
tion and Profession of the Laws, ^{Law.}
- V. From Offices in the *Army and Navy*, and ^{5.}
 from *the free exercise of their Religion* therein. ^{Army & Navy.}
- VI. From various *other Offices of Trust, Ho-*^{6.}
nor, and Emolument, ^{Other Offices,}
- VII. From Parochial *Vestries.* ^{7.}
^{Vestries,}
- VIII. From the right of *having Arms*, upon ^{8.}
 equal terms with Protestants. ^{Arms.}
- IX. From the due protection of the Law, and ^{9.}
especially of Trial by Jury. ^{Trials.}
- X. Of *the other Penalties and Privations not* ^{10.}
classed under the foregoing Heads ; and of the ^{General mis-}
general Mischiefs of this Code, as inculcating sen-
 timents of aversion towards the Catholics, stigma-
 tizing them as disloyal, faithless, and supersti-
 tious ; unworthy of Power or Trust, as an inferior

SECT. III. race : and exposing them to insult and injury, in the spirit of scorn, and the hope of impunity.

Of each of these Articles we shall treat separately ; and

I. As they respectively appear on the face of the Statute Book, *by express enactment.*

II. As they are *enforced*, to the injury of the Catholics, directly or indirectly, *in their spirit and constant efficacy* throughout Ireland.

Necessity of a detailed Statement of the operation of this Code.

It would be impossible to render a work of this nature satisfactory, were we merely to present a naked enumeration of the several Anti-Catholic Statutes, Clauses and Provisions, which remain in force. Such a compilation must fail of its professed purpose, unless accompanied by a corresponding Statement of its actual application to the Catholics of Ireland, in their various situations of life---their history---habits---numbers---respective pursuits, and local Customs, as well as their relative proportion to the professors of the Established Faith. It, therefore, appears to be indispensibly necessary to annex, to the *Letter* of these Laws, a temperate Statement of their *Operation, spirit, and construction*, in Ireland.

This shall be done under each of the foregoing **Ten Heads** of this Code, as they follow in order.

STATEMENT,

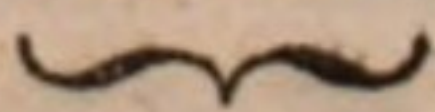
&c. &c.

CHAP. I.

Of the Laws, which peculiarly affect the Catholic Clergy, Catholic Houses of Worship, School-Houses, and other Charitable Foundations.

1. **AS** the concerns of Religion claim Catholic Clergy, &c.
the first place in the estimation of all Good men,
we begin with those Penal enactments, which are
peculiarly directed against the Ministers of Catholic Worship, and the Works of Catholic Piety.

That the Laws of a Country should wantonly Hostility towards the Ministers of any Religion—impolitic.
select the Ministers of any form of Worship as
objects of hostility, appears to be at once a departure from the principles of sound Legislation, and
a violation of the rules of good sense.---Every
measure of this nature weakens the attachment, or
lessens the love and respect, of the People towards
the Laws; and therefore inflicts a public injury.

CHAP. I. This is strongly exemplified in the instance now
 under consideration.

Catholic Cler-
 gy.

Hierarchy—
 ancient and
 perfect.

Their general
 merits.

Their indivi-
 dual excel-
 lence.

2. The Catholic Clergy of Ireland have long possessed, in an eminent degree, the confidence, the affections, and the reverence of the People. Collectively, they are the representatives of the most ancient Christian Clergy in the united kingdom. Their Hierarchy has been preserved, entire and unbroken, through every peril and persecution--- the precious depositaries of an unaltered Faith, and a pure discipline. They have uniformly shared with the unfortunate in their miseries, with the poor in their afflictions, with the suffering in their sadness, and have never once forsaken the fate and destinies of their Country. The memory of their former sorrows, of their unshaken constancy and Righteousness under every trial, of a community of griefs, of partnership in tribulation, would alone suffice to preserve and eternize the sympathy and attachment of a grateful people towards their beloved Clergy.

But besides these established advantages of high character collectively, their eminent merits, as Individuals, entitle them to the most respectful treatment. Splendid Talents, various and extensive Learning, rigid Integrity, pure Benevolence, innocence of Morals, and unaffected Piety ; all that can dignify or decorate a chosen order of men, are

to be found amongst the Irish Catholic Clergy, in **CHAP. I.**
 a degree of perfection never surpassed in any age Catholic Clergy.
 or Nation.

3. They consist of 4 Archbishops, 25 Bishops, about 1100 Parish Priests, 800 Curates, and between 200 and 300 Regular Clergy of various Orders; amounting to a total number, exceeding 2000 Clergymen, all incessantly employed in ministering to the Spiritual wants of four Millions of People. These are the peace-makers throughout every district; healing dissensions, reconciling differences, inculcating pure morality, confirming the good, reclaiming the sinful, soothing the sorrowful, earnestly diffusing all the blessings of fervent charity, and enforcing all the precepts of social affection. Their labours are incessant, and their very existence is a state of continual self-denial. No sentiment but that of Religion, no support but the inward impulse of divine love, could sustain their marvellous, and almost superhuman, exertions in fulfilling their sacred Duties. Generous, bold and indefatigable---not to be deterred by distance, inclemency of weather, unseasonable hours, dread of contagion, or any other temporal obstacle---the Catholic Priest flies to the bed of Sickness at a moment's call, imparts the balm of hope to the dying penitent, alleviates his anguish with the sweetest and most benevolent assiduity---and piously assists

Their orders,
ranks, and
numbers.

Their useful
occupations,
and heroic
Devotion to
their flocks and
their duties.

An affecting
instance.

CHAP. I. in the precious office of rendering his last moments


Catholic Clergy. acceptable in the eyes of his Creator.

These are amongst the many services of the Catholic clergy, and their claims upon the respect and gratitude of their flocks.

Yet such are the men, against whom the jealousy of the Legislature is in full vigour, and who are only noticed by the Laws, for the purposes of reprehension and of Penalty.

We shall now proceed to state these Laws, so far as they are found, directly or indirectly, to operate with peculiar severity against the Catholic Clergy of Ireland.

Felony of death, if a Catholic Clergyman celebrates marriage between two Protestants, or a Protestant and Catholic, unless, &c.

I. "If a Catholic Clergyman happens, though
"inadvertently, to celebrate Marriage between two Protestants, or between a Protestant and a Catholic (unless already married by a Protestant Minister) he is liable by law to suffer *Death*."

Statute of 6 Anne, c. 16. Sect. 6.

1. The first Statute upon this subject was enacted in the year 1708. It directs, that "If any Popish Priest shall celebrate Matrimony between any two persons, knowing that they are, or either of them is, of the Protestant Religion, he shall suffer the punishment of a Popish regular." (that is, to be transported, and to remain in Gaol until transported---and punished as if for High Treason, if he returns to Ireland, 9. Will. 3.c. 1.)

The next Statute, enacted in 1710, adopts a CHAP. I.
singular rule of evidence, not very conformable to Marriages of
Protestants
and Catholics,
&c.
the dictates of ordinary justice.

It directs, that “ Upon every Prosecution of a
“ Popish Priest for the above-mentioned offence,
“ *it shall be presumed, allowed, and concluded, to*
“ *all Intents and purposes, that the Priest so ac-* 8 Anne c. 3,
Sect. 26.
“ cused did celebrate such Marriage, *knowing*
“ that one or both of the parties was, or were, of
“ the Protestant Religion.

“ Unless he shall produce a Certificate under
“ the hand and seal of the Minister of the Parish
“ where the parties resided, certifying that *such*
“ *person was not a Protestant at the time of the*
“ *marriage.*”

But, a third Statute, enacted in 1749, renders
this offence punishable as a *felony without benefit* 23. Geo. 2,
c. 10, Sect. 3.
of clergy; and, consequently, the Catholic priest,
upon conviction, is to suffer *death*.

And this too, although such marriages had been 19 Geo. 2. c. 13.
already pronounced to be *null and void*--by a sta-
tute enacted in 1745.

2. Such is the punishment, and such the
facility of convicting a Catholic priest in Ireland,
at this day, for an offence which the most cautious
may commit (if an offence) through inadvertency
or misinformation.

CHAP. I.

Marriages of
Protestants
and Catholics.
32 Geo. 3, c.
21, Sec. 13.

To expect that the Protestant minister, perhaps a *non-resident*, shall certify that a party is *not* a Protestant, or any such negative fact, seems absurd enough. Besides, no obligation is imposed upon him, by penalty for refusal or otherwise, to grant any certificate whatsoever.

Absurd Laws
in this respect.

But this Anti-Catholic code presents a tissue of absurdities. For instance, suppose a Protestant Dissenter and a Catholic about to be married---the ceremony must be performed by three clergymen, as matters now stand.

1. The Dissenting minister.

2. The Protestant minister of the parish, (without whose previous celebration the Catholic priest is forbidden to officiate.)

3. The Catholic priest.

Stat. of 1792.

The statute enacted in 1792, which permitted intermarriages between Protestants and Catholics, has continued the previous interdiction of Catholic priests celebrating such marriages.

1793.

And, in the statute enacted in 1793, professing to grant extensive relief to the Catholics, this subject forms one of the numerous exceptions, which have been re-enacted, and thus frustrated the public expectation.

33 Geo. 3, c.
21, Sect. 12.

This act provides, "That nothing therein contained shall be construed to extend to authorize

“ any Popish priest, or reputed Popish priest, to CHAP. I.
 “ celebrate marriage between Protestant and Pro- ^{Marriages of}
 “ testant, or between any Protestant (or one pro- ^{Protestants}
 “ fessed within twelve months to be so) and a Pa- ^{and Catholics,}
 “ pist, unless such Protestant and Papist shall have ^{&c.}
 “ been first married by a clergyman of the Pro-
 “ testant religion.

“ And that every Popish priest, or reputed
 “ Popish priest, who shall celebrate any marriage
 “ between two Protestants, or between any such
 “ Protestant and Papist, unless such Protestant
 “ and Papist shall have been first married by a
 “ clergyman of the Protestant religion, shall for-
 “ feit the sum of 500*l.* to his Majesty, upon con-
 “ viction thereof.”

3. It was for some time supposed, that the former punishment of Death for this offence was virtually mitigated to the penalty of 500*l.* by the fair construction of the last-mentioned act, and had become merged in the new prohibition. However, the contrary doctrine has been adopted by high law authority, and in several cases; particularly in that of the King at the prosecution of Surgeon B-----, against the Reverend Mr. G-----, John MacDermot, and others---where Lord Kilwarden, Chief Justice of the King's Bench, declared publicly in full Court, that this offence con-

King's Bench,
East. 1800.

CHAP. I. *continues at this day to be punishable with Death,*
 under the Popery laws. In this case the Reverend
Marriages of Protestants and Catholics. Mr, G-----, one of the Clergymen officiating in
 Denmark-street Chapel, had been called upon by
 the family of a respectable Catholic tradesman, re-
 sident in his vicinity, to celebrate marriage be-
 tween a young man, a member of the family, and
 a Miss B-----, who had resided for some time
 in the House of the tradesman. The Clergyman,
 seeing no reason to doubt that both parties were
 Catholics, performed the ceremony in the usual
 manner. It turned out, that she was the Daughter
 of a Protestant, then confined in Prison for Debt,
 who immediately instituted this Prosecution against
 all the parties to the transaction.

Quere—
 whether this
 Doctrine of
 the Court of
 King's Bench
 is tenable?

Such is the risk which a Catholic Clergyman in-
 curs, in the performance of a sacred Duty. If a
 Person from a distant Parish, whose Protestantism
 may be of recent date and not known beyond the
 limits of his own county, happens to marry a Ca-
 tholic female, the Catholic Priest is *presumed to*
know that he is a Protestant, and is *punished ac-*
cordingly.

It is observable, too, that any Dissenting Mi-
 nister may legally celebrate Matrimony between
 any Catholic and any Protestant (not of the Es-
 tablished Church) without penalty.

32Geo.3.c. 21.
 Sect. 12. 13.

II. " Catholic Priests are liable to Imprison- CHAP. I.

" ment for refusing, upon being interrogated
 " in Courts of Justice, to divulge the Se-
 " crets of private Confession, confided to
 " them by their Penitents,"

Imprisonment
 for not disclo-
 sing the Se-
 crets of Con-
 fession.

1. In Courts of Justice, no distinction is permitted between the examinations of Catholic Priests and those of other persons. The same extent of testimony is exacted from them; without any exception in favour of such evidence, as may have come to their knowledge thro' the medium of private Confession. A Catholic Priest, declining to yield such evidence, when required, is treated *as contumacious, and as if actuated by no other motive than a contempt of the Judicial authorities*; whilst in reality he is governed by a virtuous principle---that of preserving a sacred trust, and guarding inviolate the secrecy of a confession, made to him upon the very faith of that secrecy.

The late Lord Kilwarden, Chief Justice, committed to gaol a Catholic Priest, the Reverend Mr. Gahan, for a contumacy of this nature. This occurred at the Summer Assizes of 1802, for the

Lord Kilwar-
 den's imprison-
 ment of a Ca-
 tholic priest,
 1802.

CHAP. I. county of Meath, held at Trim, in the case of Mrs.

Secrets of Con-
fession.

O'Brien, v. the Trustees of Maynooth College.*

Reasoning
against any
compulsion.

2. Now, it should be considered, that the attempt to enforce this obedience would, if successful, defeat its object ; because the secrets, sought to be extracted, will never be entrusted to the Priest, if there ceases to be a moral certainty that they will be religiously preserved. The public confidence in the secrecy of private Confessions being once extinguished, there will be an end of unreserved disclosures to the Priest---and no information can be had from him, who will have none to give.--- Thus, in fact, this rigorous proceeding is utterly unavailing to any public purpose, and unprofitable to the general administration of justice. It merely involves the Bench in an ungracious and ineffectual struggle---in which the public voice will ever sustain the Priest suffering in the cause of Duty, Honour, and Truth---and condemn the ill-timed and indiscreet exercise of summary Jurisdiction.

Inefficacy of
punishment.

Certainly it may be affirmed with perfect confidence, that no Catholic Priest in Ireland, will be found to yield obedience in this respect, or betray the sacred trust reposed in him. His conscientious

* The same point was decided in 1801, by the Lords Commissioners of the Great Seal, in a Cause between the same parties, upon a solemn argument of a Demurrer, taken by the Rev. W. Gahan, to an interrogatory, seeking to extract information, acquired through private Confession.

belief is, that the Sacrament of Penance is of divine institution ; that CONFESSION is one of its essential parts ; that an *inviolable secrecy* attaches to the *Sacramental Confession* ; that the Confessor is bound to suffer death, rather than reveal (by word or sign, directly or indirectly) any *sin or crime*, or any circumstance attending them, mentioned by the Penitent in Confession : yea, that the whole Confession is to be buried in eternal oblivion, and that, according to the Laws of the Catholic Church, he would expose himself to degradation for life, as a punishment for the crime of violating such a trust, and forfeit eternal Salvation hereafter. He would be immediately deposed from all his Priestly functions, and consigned to universal abhorrence.

It was so decreed by the General Council, held in 1215 under Pope Innocent :

Chap. *Omnis utriusque sexus*.---“ *De Pœnitentia*. Catholic Doctrine.
 “ *Caveat autem Sacerdos omnino, ne verbo aut signo, aut alio quovis modo, aliquatenus prodatur peccatorum*-----*Qui peccatum in pœnitentiali Judicio sibi detectum præsumpserit revelare, non solum a Sacerdotali officio deponendum decernimus, verum etiam ad agendum perpetuam pœnitentiam in arcum monasterium detrudendum.*”

We are thus particular in stating this Prohibition, because Courts of Justice in Ireland appear to consider the Catholic Clergy as only bound to secrecy, in such cases, by a mere form of *Ecclesi-*

CHAP. I. *astical regulation*, which of course might yield to the pressure of temporal authority, or the supposed exigencies of public Justice. But it is far more cogent, and, indeed is inviolable.

Secrets of Confession.

Protestant Canon.

Protestant doctrine of Confession

3. We find, too, a peculiar respect towards a trust of this nature, evinced by the Established Church. In the 113th Canon of the Church of England, (see the body of Canons, drawn up in 1603) there appears the following clause: “ *Provided always, that if any man confess his secret and hidden sins to his Minister, for the unburdening of his conscience, and in order to receive Spiritual consolation and ease of mind from him, We do not any way bind said Minister by this our Constitution, but we do strictly charge and admonish him, that he do not at any time reveal and make known to any person whatsoever, any Crime or Offence so committed to his Trust and Secrecy,*” &c. &c.

Peake's Cases at Nisi Prius, 1791.

Case of Du-Barre, &c.

Lord Kenyon's opinion.

Upon this subject, we feel pleasure in adverting to the sentiments of the late Lord Kenyon, Chief Justice of England. A case having been cited before him, (the King v. Sparkes) where the Prisoner, being a Catholic, had made a Confession before a Protestant Clergyman, of the crime for which he was afterwards indicted---and that Confession having been permitted to be given in Evidence upon the Trial, he was convicted and exe-

ented---LORD KENYON instantly declared, with a CHAP. I.
 generous disapprobation of such a proceeding, Secrets of
Confession.
"That he would have paused---before he admitted
"such Evidence as had there been admitted."

4. In fact, the hardship thus inflicted upon the Catholic Clergy might easily be alleviated, without offering violence to established principles. The Law has already provided for other Cases, perfectly analogous. *Quakers* (who, from conscientious scruples, refuse to take oaths) are permitted, in civil cases, to make simple affirmation only; and such affirmation is rendered, by Law, of equal credit with the Oath of another. Here we see the rigid rule of Evidence dispensed with, to accommodate persons, governed by inviolable principles of a religious nature.

Quakers—6
 Geo. 1, c. 6,
 19 Geo. 2, c.
 19, and other
 Statutes.

Again, *Barristers and Attornies* may refuse, in Courts of justice, to answer questions *tending to a disclosure of any confidence reposed in them by their Clients*; nay, they are not permitted to answer such questions; this is the Privilege of the Clients, not theirs.

*Peake's Evi-
dence* 177—8.

*Wilson v. Ras-
tell*, 4 T. Rep.
753.

Surely, then a similar protection is due to the Catholic Clergy and People.---Equal deference and tenderness ought, in justice and in courtesy, to be shewn towards their just scruples of Conscience, so necessary to be entertained, so long respected, and so obligatory upon every feeling of Morality, Honor, and Religion.

CHAP. I.

Punished for
Excommunication.

III. "The Catholic Clergy are liable to be
" punished, by civil Action, for excom-
" municating unworthy members of their
" own Communion."

Lord Redes-
dale.

Cited in the
Speech of the
Bishop of St.
Asaph, printed
1805,

1. The Power of Excommunication forms a subject, upon which very great pains have been taken of late years, but fruitlessly, to excite odium against the Catholic Clergy of Ireland. Lord Redesdale, who had no intercourse with Irish Catholics, or any means of obtaining correct information, confidently declared in a great public Assembly, that "Excommunication from the Catholic Church is, in Ireland, not simply a separation from the Body of the faithful, but, to all intents and purposes, an Interdiction *ab aqua et igni*; that no Catholic dares to administer a cup of cold water, or a crust of dry bread, or any other necessary sustenance to an excommunicated person: and that the offence which draws down this heavy sentence, is *any friendly intercourse* which a Catholic may be found to hold with Protestants."

All these assertions, we must distinctly say, are directly contrary to the fact.

Real extent of
Excommuni-
cation.

2. The truth is, that this punishment, so much misrepresented, is actually limited to the Separation of a Christian, leading a disorderly Life, disgracing his profession, from the Chris-

“tian Congregation, and a banishment of such
“person from the Church.”

CHAP. I.

Excommuni-
cation pun-
ishable.

It amounts to neither more nor less than that which the expulsion of a Member of any other Religious Society, for disorderly and disgraceful conduct, would amount to. There ensues no Interdict against any other person communicating with the expelled Member in *Temporals*, except so far as such Communion may extend to a wanton and contumacious encouragement and approbation of the conduct so punished. On the contrary, the Catholic Discipline expressly recognizes several kinds of temporal communion, as wholly unaffected by Excommunication. They are compressed, for brevity's sake, in the following Line :

Real extent of
Excommuni-
cation,

“ *Utile, Lex, Humile, res ignorata, necesse.*”

These five Heads of Exception to the temporal consequences of Excommunication are so comprehensive, as to embrace every supposable temporal case : they are construed with great indulgence, and accepted with every latitude. The Excommunicated person retains his claim to all the offices of Charity, to relief in his necessities, to employment for his Industry, to society with others for all useful or necessary purposes, and to the ordinary relations of life, as those of Master, husband, father, soldier, trader, &c. &c.

As for Excommunication of any person for associating with the expelled Member, or even for

CHAP. I. encouraging and abetting him, we believe that no instance of the kind has occurred : at least, none with the sanction of any Catholic Bishop in Ireland.

Few instances
of Excommu-
nication.

Unfounded
charge against
the Catholic
Clergy.

3. The Catholic Clergy have been unjustly accused of pronouncing this Sentence in light and frequent cases.---Now, on the contrary, it is reserved for crimes of gross enormity or turpitude. Only two instances of it have occurred during the last 24 years in the populous Arch-Diocese of Dublin, wherein, from the vicious habits of a great Capital, the most numerous occasions for its exercise may naturally be supposed to have occurred.---During the preceding 17 years only two other instances have been known.---Yet none of the persons, so excommunicated, appear to have suffered any temporal injury from the sentence. They have continued in their respective Trades and occupations : have not been in any manner molested : and they have met their Catholic Neighbours, and been dealt with, as before.

This power
not injurious.

Discreetly ex-
ercised in Ire-
land.

So discreetly, too, is the exercise of this Power limited, and so jealously is it watched, by the Catholic Hierarchy, that, according to the Discipline of the Catholic Church in Ireland, no Clergyman of the second order can issue an Excommunication without previously laying the case before the Bishop of the Diocese, and obtaining

his sanction for proceeding to this last of spiritual
Punishments. CHAP. I.

Ex communi-
cation pun-
ishable.

4. It is, then, a matter of just and grievous complaint among the Catholic Clergy of Ireland, that the exercise of this species of jurisdiction has been assailed by Judicial decisions, of recent date, pronouncing it to be obnoxious to the Laws, and punishable equally with common defamation. These decisions, coupled with strong declarations from high authority, hostile to the existence of a Catholic Hierarchy, amount to a public avowal of an intention to extinguish all Power and Jurisdiction enjoyed by the Catholic Clergy, even with the voluntary concurrence of the People. If, indeed, the Catholic Clergy, under the presence of Excommunication, sought to establish an arbitrary right of over-stepping the legitimate boundaries of this Jurisdiction, at their discretion; for instance, in adding slander or defamation to the Language of the Sentence, in cautioning the public against the expelled member, as immoral, &c. by injuring him in his Trade, or by similar extra-official Acts: ---If they sought to deprive him of his temporal Rights, or to subject him to the temporal Penalties annexed by the Laws of these Realms to Excommunication, which indeed *are* dreadful!!!---then perhaps, they could not complain of being deprived of the exercise of this Power. But they

Boyle v. Mac-
Laughlin,
King's Bench,
Easter Term,
1810.

Excommuni-
cation known
in all other
Religions.
Rex v. Hart
& Black, Re-
ports, p. 386.
Burr's Eccl.
Law, vol. 2, p.
779.

CHAP. I. neither profess, nor mean, any such thing. Ex-

Excommuni-
cation punish-
able.

communication, as understood by them, we have already described to be "*a mere Separation of a person from the faithful in Spirituals.*" Of this Right no power upon Earth can divest them. If they refuse to admit to Communion, a notorious Sinner, or an incorrigible Delinquent, how can the Laws take cognizance of such refusal? Yet this is a species of Excommunication.

Excommuni-
cation known
in all other
Religions.

Rex v. Hart,
1 Blacks, Re-
ports, p. 386.
Burn's Eccles.
Law. vol. 2, p.
779.

5. All Classes of Religious Dissenters, Presbyterians, Quakers, &c. and even Jews, exercise this Right of Excommunication. Nay, it is a Right, recognized by the Courts of Law in England. It is, indeed, inherent in the Constitution of every Community, Civil and Religious. If a member of such a Community acts disgracefully in it, or chooses to violate its settled Rules and Laws (*and which he must be taken, as a member, to have assented to*) nothing seems more reasonable or necessary, than that the Community, or its chief members, should exercise the right of expelling him. And, if any consequences, injurious to his interests or reputation, should happen to result from such expulsion, it would be an enormous injustice to compensate the Offender at the expense of the Community, thus compelled to remove him.

6. There certainly appears great reason to question the sound sense of the Principle, upon which it has been held, that “An Action at Law may be sustained, to recover Damages from a Catholic Clergyman, for a mere Excommunication.” For, if the Catholic Worship be erroneous, as is pretended---if the Catholic Religion and practices be dangerous, and fit to be stigmatized and discountenanced by the Laws---surely it would follow, and the Law ought to presume, that the removal of any person from the Catholic Community, howsoever effected, must be rather a benefit to him, than an Injury. He ought, therefore, not to be deemed entitled to complain of such removal; but rather be congratulated as a fortunate Person, extricated from an unhappy Society, which is condemned by law, or barely permitted to exist to a partial extent, and under hard restrictions.---His temporal condition *must* derive admitted advantages from such removal---and, though his prospects in the world to come may be somewhat impaired by the untoward event, yet this is a supposition that the present Code of Laws cannot entertain or act upon. The question may possibly be brought under solemn discussion hereafter, and finally settled,

At present, the doctrine appears to be as unreasonable, as it is vexatious and harrassing to the Catholic Clergy of Ireland.

CHAP. I.

Excommuni-
cation punish-
able.Doubts upon
the Judicial
Decision in
Boyle v. Mc.
Laughlin, Ant.
p. 29.

CHAP. I.

Prevented
from attending
the Soldiers
and Sailors.

IV. "The Catholic Clergy are denied the
" permission (and sometimes even in Ire-
" land) to perform the Rites of their
" Religion for the Catholic Soldiers and
" Sailors,"

Post. 131, &c.

This Interdiction, and its extent, shall be
treated of hereafter, in the Chapter detailing the
disabilities, affecting Catholics in the Army and
Navy.

Divine Service
unprotected.

V. "The Catholic Clergy are unprotected
" by any Law, prohibiting the disturbance
" of Divine service, whilst celebrated by
" them."

6 Geo. 1, ch.5,
Sect. 14, pro-
tects Dissent-
ers.

It is observable, that the celebration of Divine
Worship, in the Dissenting Congregations in Ire-
land, is protected by an Act of Parliament, im-
posing a Penalty of 20*l.* upon any person disturbing
it.---This is but reasonable.

English Catho-
lics protected
by Law.

And in England, the Catholic Worship is pro-
tected in like manner, by an English Statute of
31 George III. ch. 32. (1791.)

VI. "The Catholic Clergyman, bound by CHAP. I.

"his vows to a life of Celibacy, and gene-

"rally in narrow circumstances, feels the

"harshness of being held liable to the

"payment of a modern tax, called *Bachelor's*

"*Tax.*"

Bachelor's Tax
levied upon Ca-
tholic Clergy.

This Tax was, doubtless, levelled only against Unreasonable persons, more able to contribute to the public Revenue, and more likely to be compelled by it to enter into Matrimony. Had the Catholic Clergy been duly recollected and respected by the State, they would have been exempted from the payment of this tax, by an express Clause in the annual Revenue Act. Notwithstanding, it has been demanded, and exacted.

VII. "In various other instances, the Ca-

"tholic Clergy have reason to complain

"of the insult or injustice legally inflicted

"upon them."

Other grounds
of complaint.

1. They are interdicted (as we shall see in the next Article) from receiving any endowment or permanent provision, either for their own support, or for that of their Houses of Worship, &c.

No Endow-
ment of a Ca-
tholic Clergy-
man, or House
of Worship, &c.
Post. 41, &c.

2. They receive no public recompence for their arduous and unremitting attention in the performance of the necessary Religious duties in

No recom-
pence as chap-
lains to public
institutions.

CHAP. I. Hospitals, Asylums, Workhouses, and similar
public Establishments.

Services as
Chaplains, &c.
unrequited.

It appears to be a self-evident proposition, that every duty of a public nature ought to be provided for at the public expence. This truth is partly recognized by the Legislature itself, in carefully nominating to each of these institutions a Chaplain of the Protestant Church with a suitable salary. This regulation, however, affords only the appearance of Spiritual aid, not the reality : for it is notorious, that the services of these Chaplains are not accepted by the unfortunate persons (mostly Catholics) for whom they are nominally provided. This outward form of Religious attendance is, therefore, to the Catholics, little better than a mockery. They can derive real benefit from the ministry of a Catholic Clergyman alone.

Gaols

Restricted
compensation.

Indeed, a limited compensation, under fanciful restrictions, has been recently proffered to such Catholic Clergymen, as the respective Grand Juries may be pleased to nominate for the purpose of officiating as Chaplains to Prisons, &c.

50 Geo. 3.
ch. 103.
§. 47.

A Statute, enacted in 1810, directs, "*That it shall and may be lawful for every Grand Jury in Ireland, and they are hereby required, at any Assizes, or Presenting*

“ Term, (if they shall be so required by CHAP. I.
 “ the Court) to appoint a Priest or Clergy-
 “ man of the Roman Catholic Church, to Services as Chaplains, &c.
 “ be Roman Catholic Chaplain of the seve-
 “ ral Gaols, Bridewells, Houses of Cor-
 “ rection, or other Prisons, of and in their
 “ respective Counties, Counties of Cities,
 “ and Counties of Towns: Provided always,
 “ that every person so appointed shall be
 “ approved of by the Court.”

It further enacts, “ that the Grand Jury, at
 “ every Spring Assizes or Easter Term Sect. 49.
 “ yearly, may present a Sum, by way of
 “ recompence to every such Chaplain---not
 “ exceeding 100l. or less than 60l. in Dub-
 “ lin County and City ; and not exceeding
 “ 50l. or less than 30l. in each of the other
 “ Counties, Cities, or Towns.”

But here too, from the oversight of the framer Blunders in the Statute of 1819
 of this Statute, his disdaining or neglecting to
 consult the Catholic Clergy upon the arrangement,
 and his supercilious management of the entire Commonly called Mr. W. Wel-
 transaction, this measure has fallen far short of lesley Pole's Act.
 its professed object, and is almost nugatory.

In some cases, it has proved even pernicious---by exciting discord between the Grand Jury and the Catholic Bishop of the District.

CHAP. I. For, according to the ancient and established dis-

Blunders in
Mr. W. Welles-
ley Pole's Sta-
tute of 1810.

cipline of the Catholic Church in Ireland, "no
" Catholic Clergyman can or ought to undertake
" to officiate as Chaplain to any Prison, save the
" Catholic Parish Priest, and the curates of the
" Parish---and such persons as may be specially
" appointed by the Catholic Bishop of the Diocese.
" Any other Catholic Clergyman, so officiating,
" commits a direct infraction of the settled rules
" and discipline of the Catholic Church." Now
this Statute wholly overlooks the Catholic Bishop,
whose consent is indispensably necessary for ren-
dering the appointment of a Chaplain available :
and it purports to invest Grand Juries with power
to confer this spiritual faculty upon any Priest of
their own nomination. It is not probable, that
Laymen, Protestant or Catholic, can in every
case select the most eligible Chaplain. Private
friendship, and other motives, occasionally in-
fluence Grand Juries upon public occasions.

Mischief's oc-
casioned by
this Statute.

At Enniskillen,
Kilkenny, &c.

It has accordingly so happened, naturally enough,
that the Grand Juries have nominated persons to
these situations, from whom the Bishop has with-
held the necessary faculty ; and hence painful dis-
sentions and ill-will have arisen in some districts.
Prisons have been left unprovided with Chaplains ;
admittance refused to the priest, not nominated

by the Grand Jury---and the unhappy Prisoners have died without the consolations of Religion!!

CHAP. I.
Want of Prudence and Courtesy, in framing this Act.

These mischiefs might have been avoided, by some prudence, and a little condescension, in preparing this Statute. The direct and decorous course would have been, to limit the appointment to the Parish Priest---or to such other person as the Catholic Bishop should recommend to this pious and interesting Office.

3. Again, the Catholic Priest is expected, in times of disturbance, to perform the duties of the civil Magistrate.

Catholic Priests obliged to act as Peace Officers.

Generally it is taken for granted, that he is privy to every occurrence in his Parish; that he can procure Information, detect crimes, point out criminals, and even prevent any breach of the Peace, if he thinks proper. The neighbouring magistrate, therefore, continually applies to him for such purposes, and sometimes in a tone of command or menace. He considers him as responsible for the peace of his Parish, and for the good conduct of the Parishioners. He requires him to devote his time and attention (which are scarcely sufficient for the discharge of his pastoral Duties) to the occupations of a *Peace Officer*; such as discovering stolen property, denouncing felons, advertising rewards, &c. Thus, whilst the Magistrate or Peace Officer, as by Law established, vir-

Severity of such treatment

CHAP. I. tually *abdicates* his peculiar functions, or transfers them to the proscribed priest, the latter is burdened with all the inconvenience, solicitude and odium of performing them.

Catholic
clergy obliged
to act as Peace
Officers.

Should he decline such tasks, or appear remiss in undertaking them, he incurs severe censure, and, perhaps, considerable personal danger. Should he, on the other hand, prove obsequious, no compensation, profit, or reward, awaits him; probably not even barren thanks, or approbation. And if, eventually, he proves fortunate enough to avoid suspicion, to combat the imputation of being himself a fomenter of outrage, a concealer of Felons, and a dangerous disaffected *Papist*---it is the utmost he can reasonably aspire to, as the consummation of the affair, whatever may be his diligence, his fidelity, or his complaisance. Such is the general Experience.

Propriety of
relieving the
Catholic Cler-
gy:

It is now high time to release the Catholic Clergy of Ireland from all these vexatious, unavailing, and impolitic restraints. Their respectable situation in the Community, their acknowledged public utility, their pure and exemplary conduct under the severest trials, and the merited regard and reverence, in which they are held in Ireland by upwards of FOUR MILLIONS of the People, entitle them to a very different treatment from that which they now experience.

4. What good cause can possibly exist for **CHAP. I.**
 the pointed scorn and hostility uniformly evinced ^{Hostility}
 towards the Catholic Hierarchy of Ireland, we ^{against the Ca-}
 are utterly at a loss to imagine. In every class ^{tholic Hierar-}
 of Christians, and in every Religious society, ^{chy unwise and}
 there is probably some Hierarchy or other, tho' ^{unfounded.}
 all under different titles. For the purposes of
 providing a succession of ministers, of defining
 rites and discipline, of maintaining internal
 subordination, and of restraining from vice and
 impiety by the authority of sacred functions, it
 has been deemed expedient, in other Congre-
 gations, to prescribe certain forms and powers of
 ordination, and gradations of rank; and to de-
 termine upon cases of correction or of exclusion---
 when the gross misconduct or pernicious example
 of individual members calls for censure. The
 Protestant Dissenters have also their Districts:
 their Congregations, Synods, Elders, Readers, &c.
 Why, then, should similar internal regulations
 amongst the Catholic Clergy excite alarm and
 grievous offence? Besides, it is to be recollected,
 that in the Catholic Church of Ireland a regular ^{Catholic Hier-}
 Hierarchy, and gradation of Clergy, have ex- ^{archy of imme-}
 isted immemorially, with appropriate districts, in ^{morial origins.}
 which they respectively officiate: and that their
 congregations consist, not of a handful of gentry
 and tradesmen, but of an immense proportion of

CHAP. I.

Catholic
Hierarchy.

Useful and
honourable

the people, at least five sixth parts---comprizing persons of every order and degree in society. No person, not prepossessed against the sacred order generally, will pretend that the existence of this valuable Body in Ireland can possibly prove injurious to the morals or principles of the people. Long experience has proved the contrary. It has shewn, in abundant and brilliant testimony, that the Catholic Hierarchy of Ireland, unendowed, unsalaried, unpatronized as they are, have deserved highly of their country: and that their piety, benevolence, patience, fidelity, conscientious discharge of their sacred duties, their uniform virtues, decorated by splendid talents, assign to them a rank of estimation, not inferior to that of any Spiritual order that has appeared since the earliest ages of Christianity. It must, therefore, be admitted by every reflecting man, that a prudent Legislature, viewing this subject wisely and liberally, should immediately adopt the most comprehensive measures for the effectual relief of the Catholic Clergy. It should place this estimable class of men in a situation, not merely of connivance or bare permission to fulfil their duties, but of actual facilities and marked public encouragement for that purpose---and this, without any compromise or stipulation whatsoever.

VIII. "The Law forbids the permanent En- CHAP. I.
dowment of any Catholic Clergyman, ^{Catholic en-}
House of Worship, School-House, or ^{dowments, &c.}
other pious or charitable Foundation for ^{forbidden.}
Catholics."

1. Whilst the Members of all other Religious Persuasions in Ireland are permitted to provide for the permanent maintenance of their respective Ministers of Worship, and of the establishments connected with their respective tenets, the Catholics alone are denied this permission.---Reproached, as they frequently are, with the poverty of their Clergy, the misery of their people, and the supposed ignorance of their poor, they are forbidden, by Law, to resort to the necessary measures for supplying these deficiencies.

The Catholics, though they see in silence that all the National Charities, Legislative endowments, and pious funds, are absorbed in Protestant institutions, and monopolized by the ruling class, yet have not claimed their proportion of those Grants. They have not contended, as they well might, that they, as composing such a decided Majority of the People, have an undoubted Right to an equitable apportionment of public money towards the Charities and pious uses of their own Religion. But they complain, and loudly, that the Laws prohibit them from applying

Their Charitable Foundations entitled to a due share of the Public Money.

CHAP. I. any part of their own particular property, perhaps
 Catholic en-
 dowments, &c.
 forbidden. acquired by personal industry, towards establish-
 ing those necessary funds for Charity and Re-
 ligion, which the Legislature has abandoned to
 neglect and insolvency.

Injustice of
 this prohibi-
 tion.

It seems unjust to refuse all national aid, all participation of public bounty, to those great and salutary objects. But it is too much to forbid the Irish Catholic to exercise his benevolent feelings towards Catholic foundations, to debar him from settling a moderate annuity or piece of Land upon his own pastor for the time being, from granting or procuring a long Lease of the site of a Catholic Chapel or Schoolhouse, or endowing any of those valuable Charities, permanently, with suitable means of maintenance; nay, even to convert these prohibitions into topics of habitual obloquy, ridicule, and reprobation against the Catholic Community.

Obscurity of
 the Law of
 charities in
 Ireland.

2. THE LAW OF CHARITIES,
 as now in force in Ireland, is involved in some obscurity. The highest Judicial Authorities have, even recently, admitted the difficulty of tracing the doctrine of this subject.

The Law in
 England differs
 from that of
 Ireland.

The Law of England differs materially from that of Ireland, respecting Charitable donations. This is chiefly owing to two important Statutes in

force in England, which have not been enacted CHAP. I.
 in Ireland; namely the Statute of the 1 *Ed.* 6. Catholic en-
dowments, &c.
orbid den.
 c. 14, and that of 9 *Geo.* 2, c. 36, *English.*
 Of these we shall treat presently.

However, we apprehend that the following view of the Law of Charities in Ireland will be found correct.

First, as to Donations of *Lands*; and
Secondly, as to Donations of *Money*, or other personal property.

1. As to *Donations of Lands*.---By the English Donations of
Lands.
 Statutes of 7 *Ed.* 1. *Stat.* 2. and 15 *Richard*
 2. c. 5. (which, being previous to the 10 *Hen.* 7,
 are in force in Ireland) it was enacted,

That “*No Corporation, civil or Religious,* Mortmain acts
7 Ed. 1, Stat. 2,
15 Richard 2,
ch. 5. *English.*
 “*should purchase any Lands in Mortmain,*
 “*under penalty of forfeiture of the Lands*
 “*purchased,*” That is to say, that no Religious
 House, or any Bishop, Priest, &c. for himself
 and his successors, should, or could, take any
 Interest in Land, &c. for support of the House,
 or of the Bishop, Priest, &c. for the time being,
 and his Successors.

Thus, Gifts of *Land* to Corporations, Civil
 and Religious, and purchases by or for them,
 were declared generally void.

However, subsequent exceptions have been Exception to
Mortmain acts
in favor of Pro-
testant chari-
ties.
 made, by express Statutes, in favor of certain

CHAP. I. Protestant institutions, and of such Corporations as the King may think proper to license.

Catholic endowments, &c. forbidden.

10 Charl. 1, Sec. 3, ch. 1.

Nearly similar to the English Statute of 43 Eliz. ch. 1, but mutilated on the Roll.

For, in 1634, it was enacted by the Parliament of Ireland, that "All Archbishops and Bishops in Ireland may be compelled in Chancery, or by Petition to the Council Board, to execute Trusts and Conveyances to them, of Lands or hereditaments," for certain purposes specified by the Act, *which alone are thereby declared to be lawful and Charitable purposes*; such as building and repairing Protestant Churches, Colleges, Schools, or Hospitals, Bridges or Highways, Maintenance of Ministers and Preachers, &c. This Statute legalizes the several institutions and public purposes therein enumerated; and subsequent Statutes have also, upon the same principle, dispensed with the Mortmain Acts in favor of various kinds of Donations.

10 and 11 Charl. 1, ch. 2.

As, of Impropriations of Protestant benefices, glebes, tythes, and other rights, heretofore deemed ecclesiastical, to be granted to the Protestant Clergy.

Endowments of Churches with Glebe Lands.

Grants to various Protestant Corporate Bodies,

15 Charl. 1, ch. 11,
2 Anne. ch. 10
and 19. 4 Geo. 1, ch. 14, 10.
Geo. 1, ch. 7.
11 and 12 Geo. 3 ch. 11. 15.
and 16 Geo. 3, ch. 38, &c. &c.

by force of several Statutes enacted from the year 1704 to the present time; and empowering those Corporations to take and purchase Lands, in perpetuity, for the Maintenance of themselves and of

their Successors, and for the permanent support and prosecution of the purposes, for which those Corporations were respectively formed.

CHAP I,
Catholic endowments, &c forbidden.

Finally, in 1792, an Act was passed, whereby
 “ His Majesty, his heirs and Successors, are authorized to grant Licences to any person, body, politic or corporate, to grant or to purchase, acquire, or take Lands in Mortmain:” that is, in the manner forbidden by the old Mortmain Acts, already mentioned.

32 Geo. 3. ch. 81.

Similar to the Stat. 7 and 8 Will. 3. ch. 37 English.

Thus, the prohibition being general, and the exceptions limited to Protestant institutions, or to such lawful purposes as the Crown may direct, it follows, that the Catholics alone remain, at this day, disabled from endowing any of their Charities with any Lands, or Interests in Lands : and this in three ways, viz.

No exception from the Mortmain acts in favor of Catholic charities.

1. If a person were to grant Lands to a Catholic Charity---as, for the maintenance of the Pastor, the support of the Chapel, school, &c. there exists no Catholic Corporation, civil or religious, legally competent to take such Lands in trust, or competent to any other purpose : for the Law does not recognize the Catholic Bishop, or Priest, and his successors---as a body corporate, for any purpose whatsoever.

No Catholic corporation capable of taking Lands, &c.

2. Even if there did exist a Catholic Corporation, it could not take Lands without a License

No licence from the crown in their favour.

CHAP. I. from the Crown : and, under the present system of

Catholic endowments, &c. forbidden.

Penal Laws, such a Licence is not to be expected.

Catholic charities not a *good charitable use*, by Law.

3. If a Catholic Corporation were even to obtain such a licence, it would not (neither would any individual) be enabled to take Lands for any other than *Charitable and lawful purposes*, as recognized by existing Law. Now there is every reason to apprehend (as we shall presently show) that it would not be deemed a *good Charitable use*, within the policy of the Law, to apply the income of such Lands towards the support of Catholic Clergy, schools, or similar foundations.

Post p. 48.

Donations of money, &c.

II. As to *Donations of Money*, or of other personal property.

Not expressly prohibited in Ireland by any Statute.

1. It is true, that Donations of this nature, for the permanent Support of Catholic Charities, do not appear to be prohibited by the *express Letter* of any Statute, enacted in *Ireland*.

English Stat. 1 Edw. 6, ch. 14.

In England, indeed, such Donations are declared illegal, by a celebrated Statute (enacted in the infancy of the Reformation) which enumerates a great variety of Gifts and Charities of this nature,

Prohibited by express Statutes in England.

terms them *Superstitious uses*, and vests them in the King, who is empowered to direct and appoint them "*in eodem genere*,"--so as that they can never

And appropriated to *Protestant charities*.

revert to the Donor or his representatives, *but are to be appropriated to Protestant Institutions.*

By this Statute, a *Superstitious Use* is defined CHAP. I.
 to be, “Where Lands, Tenements, Rents, Goods, Catholic endowments, &c. forbidden.
 “or Chattels are given, secured, or appointed for
 “or towards, the Maintenance of a Priest or Chap- Definition of a superstitious use.
 “lain, to say Mass; of a Priest or other man to pray
 “for the souls of the Dead or of any Dead person---
 “or to maintain perpetual Obits, Lamps, &c. to be
 “used at prayers for Souls :” these, *and such like*,
 are Superstitious uses.

Now, it is laid down that not only by force of Bacon's abridgment, vol. 1. 581.
 this Statute, and of other Statutes, (as 15 *Rich*
 2, c. 5. 23 *Hen.* 8. c. 10. 37 *Hen.* 8, c. 4.) but al- 4 Co. Rep. 104. Cro. Jam. 51, Salk. Rep. 162.
 so generally as *Head of the Church*, and as en-
 trusted by the common Law, to see that nothing is
 done in maintenance or propagation of a false Re-
 ligion---the King is entitled to all such Grants, Gifts,
 &c. so as to appropriate them to other uses, that are
 held lawful and truly Charitable.

2. If such, then be the established Obnoxious to the common Law.
 principles of the Common law, they must guide
 courts of Justice in Ireland, as well as in Eng-
 land. And it follows, that all gifts and grants
 of Lands, Money or Goods, in Ireland, to or for
 the support of a Catholic Pastor of a parish, &c.
 are as fully comprehended in the prohibition, as if
 the Statute of *Edw.* 6, had been enacted in Ire-
 land.

CHAP. I.

Catholic endowments, &c. forbidden.

Mr. Mitford, in Cary, v. Abbott, 7 Vesey jun. 492. 1802.

Indeed, it has been held, by very respectable authority, and not controverted, “That superstitious uses are void, not merely by the Statutes of England, but also by the *general policy of the Law.*”

This argument of *general policy*, being of an undefinable nature, may be pushed to any extent, that may appear to a Chancellor to be necessary for defeating a donation to a Catholic Charity.

Ibid—Sir W. Grant.

The Master of the Rolls in England (Sir W. Grant) thus expresses himself: “There is no doubt that a disposition, for the purpose of bringing up and educating children in the Catholic Religion, is *unlawful.*” And in Ireland too, in a very recent

Commissioners of charitable bequests, v. Dr. Bray, Dr. Power, and others—April 21, 1809.

case, the Lord Chancellor (Manners) intimated a strong leaning against the validity of a similar disposition; and, although this case has not been finally decided, there appears but little room to doubt, that his Lordship adopts the construction already received in England.

Hence all donations to Catholic charities are void.

It is, therefore, not too much to affirm, upon a view of all these circumstances, that *no person can safely give or grant any Lands, Money, or other property, to or for the permanent support of any Catholic Priest, House of Worship, School, Charitable edifice or foundation of any description,---in Ireland; subject as such donation must be to serious*

doubts and hazards. That such Donation would probably be diverted to Protestant institutions, directly contrary to the donor's intent, is a prospect sufficiently discouraging, to deter any rational person from granting it.

CHAP. I.

Catholic endowments, &c. forbidden.

This may be taken, therefore, as equivalent to an *actual and positive prohibition*.

3. Nor is the prohibition dormant. For the Irish Legislature has carefully established a new Ecclesiastical Board, whose province it is to detect Catholic charities, and to appropriate their funds, when detected and seized, to the better maintenance of Protestant institutions. To effect this object, a special Corporation has been embodied, under the plausible title of "Commissioners of Charitable Bequests." This corporation deserves notice, by reason of its alertness in hunting down Catholic Charities---It originated as follows :

Commissioners of Charitable Bequests.

Alertness of this Board in pursuing Catholic charities.

In 1763, it was enacted, that all Charitable donations, contained in Wills, should be published very particularly, three times successively in the Dublin Gazette, at the expence of the Executor, within three months after obtaining probate of the Will, under a penalty of 50*l.* in case of his neglect; and, also, that extracts

Its origin—Stat. 3. Geo. 3. ch. 10, 18.

Penalty of 50*l.* against Executor, &c. not gazetted Charitable Bequests, three times,

CHAP. I. from such Wills should be lodged by the proper officers in each diocese, annually, with the clerks of each House of Parliament.

Commissioners
of Charitable
Bequests.

This Statute was made, obviously, for the wise purpose of checking the embezzlement of Charitable donations—a practice but too common in Ireland, as well as in England: and, indeed, it recites as its principle, that “The pious intentions of many charitable persons were frequently defeated by the concealment or misapplication of their donations or bequests to public or private charities in this kingdom.”

Preamble.

Stat. 3 Geo. 3,
ch. 10.

Lord's Journals
1764—nominating a committee.

In consequence of this act, an order of the House of Lords of Ireland was made, in 1764, appointing a committee of that House (consisting mostly of Bishops) to carry its purposes into effect. Thus the Law stood until the year 1800, when the present Corporation was established by a new Act.

40 Geo. 3, ch.
75—constituting the corporation of Charitable Bequests.

4. This Act (not to alarm public jealousy) professes to be an amendment of the former Act. It recites the appointment of the Committee of the Lords, in 1764, and its exertions; and proceeds thus:

“And whereas, by the Union of Great Britain and Ireland, such Committee will be discon-

“tinued, and the pious intentions of many chari-
 “table persons will be, thereby, hereafter (as
 “before the said Committee was appointed)
 “defeated by the concealment and misappli-
 “cation of their donations or bequests to public
 “and private Charities in this kingdom ; and
 “it is expedient and necessary, that some
 “public Body should be constituted and appointed
 “to watch over such charities and bequests, and
 “to enforce the application of them to the pur-
 “poses *designed and intended by the pious donors*
 “*thereof.*”

CHAP. I.

Preamble.

Stat. 40, Geo.
3. ch. 75.

This is the preamble--the key to the meaning and construction of the act. It appears, at first view, to be solely directed to donations concealed or applied to purposes *contrary to the pious intent* of the donors ; of which the Trustees of numerous old charitable donations to Protestant Schools, and other institutions in Ireland, had afforded flagrant instances. Little could it be suspected, however, that this Statute was calculated principally, (under pretence of amending the act of 1763) to raise a new barrier against Catholic charities ; to *defeat* the pious intents of Catholic donors ; and, by enabling a regular array of Commissioners to sue legally as a Corporation, to remove from the Attorney General (whose legitimate province it was) the

Plausible pro-
fession of this
Statute.

CHAP. I. odium of filing informations, of his own authority, for the confiscation of Catholic bequests.

40 Geo. 3. ch.
75, Sect. 1,
appointing the
Commissioners
mostly bishops
& other clergy.

This Statute first appoints the Commissioners : consisting of all the Archbishops and Bishops of Ireland, the Judge of the Prerogative Court, several other clergymen, incumbents of parishes, with the addition of the Chancellor and Twelve Judges, all for the time being.

Sect. 2. It next ascertains their jurisdiction ; which is, indeed, both extensive, and formidable to all heterodox donors.

Enlarging the
powers of the
Commissioners
so as to reach
Catholic chari-
ties, &c. and
seize their
funds.

It enacts, “ That the Commissioners and their
“ successors may sue in every court in this king-
“ dom, either of Law or Equity, for the recovery
“ of every Charitable donation or bequest, which
“ may or shall be withheld, concealed, or *misap-*
“ *plied* : and apply the same, when recovered,
“ according to the intentions of the donors ; or in
“ *case it be inexpedient, unlawful, or impracticable*
“ *to apply the same strictly according to the di-*
“ *rections and intentions of the donors, then*
“ *to apply the same to such charitable and pious*
“ *purposes as they shall judge to be nearest*
“ *and most conformable to the directions and in-*
“ *tentions of the donors*—with full costs, to be paid
“ to the said Commissioners out of the Charitable
“ donations.”

The third Section merely declares, that five CHAP. I. Commissioners shall constitute a *Quorum*, but Commissioners of Charitable Bequests. that an Archbishop or Bishop shall always be one.

The fourth Section directs, that the returns of Sect. 4. those Charitable legacies, which were by the former act directed to be made to the clerks of Parliament, shall in future be lodged with the Secretary of this new Board.

5. Thus has the Irish Parliament, in Effect of the Statute of 1810 upon donations to Catholic Charities, the last year of its existence, solemnly organized a powerful Inquisition, vigilant and eager in the pursuit of its prey, and armed with every necessary authority for discovering and seizing the funds, destined by dying Catholics for the maintenance of the pious and the poor of their own Communion.

For instance, a Catholic bequeaths certain small annuities, for the decent support of his Parish Priest, the occasional repairs of the Catholic Chapel, and the better education of the youth of the parish; and he confides the fulfilments of his pious intent to two solvent and upright Executors, of his own choice and approbation. Upon his death, his Executors are obliged, under penalty of 50*l.* to publish these bequests in the Dublin Gazette three times. An Example of its operation.

CHAP. I. successively, with every particular circumstance, within three months after obtaining probate of the Will, Thus, or through some other channel, these bequests attract the notice of the Commissioners of Charitable bequests, or of their Secretary, &c.

Commissioners
of Charitable
Bequests.

Information
filed against
Catholic Cha-
rities,

They instantly file an Information in the Court of Chancery against the Executors, alledging,
 “ That those bequests were given to *unlaw-
 “ ful and superstitious Uses*; that they are
 “ therefore vested in the King, who, in his
 “ capacity as Head of the Church, is entrusted,
 “ by the Common Law, *to see that nothing
 “ is done in propagation of a false Religion*:
 “ that those bequests, though unlawful, cannot
 “ even revert to the representatives of the donor:
 “ for, having manifested *some* Charitable intent,
 “ but mistaken the legal mode of effecting it,
 “ he is to be considered as having given the
 “ bequest to *general* purposes of Charity, of
 “ which the King is authorized to select the
 “ legal objects: That, therefore, the King is to
 “ direct and appoint the appropriation of these
 “ bequests, *in eodem genere*, to Protestant chari-
 “ ties—such as shall appear to be the nearest and
 “ most conformable to the charitable intentions
 “ of the donor: or (technically speaking) to
 “ execute those intentions *cy pres* ”

CATHOLIC WORSHIP, CHARITIES, &c.

The Commissioners, proceeding in such an **CHAP.** Information, will, of course, be entitled to the benefit of the Statute; they may recover and apply the bequests according to its provisions; and (lest any hazard should deter them) their full costs and expences are directed to be reimbursed to them out of the Charitable donations, although the Executors resisting such Informations are not allowed a similar indemnity.

Commission of Charital Bequests.

Proceedings of the Commissioners.

Suffice it to say, respecting the general conduct of this Board, that their zeal and activity in the discharge of their ungracious functions have completely succeeded in frustrating every attempt of the Irish Catholics to provide any permanent maintenance for the Ministers of their worship, their places of education, or other pious or Charitable foundations.

Their zeal in frustrating Donations to Catholic Charities

6. This state of things is to be deplored, in every point of view. The prohibition is not merely churlish and unseemly in itself, but highly injurious to the country in its hope of improvement and civilization. It is directed peculiarly, too, against the Catholic Clergy and charitable institutions: for those of other Religions are exempt from it.

Hardship of this prohibition.

The Established Religion, as we have seen, *Ante. p. 42, &c.* enjoys every facility for similar purposes. Nu-

CHAP. I. merous Statutes have been framed, expressly, for removing all impediments in the way of donations, even of Lands, to various ecclesiastical bodies of the Protestant Faith.

Commissioners
of Charitable
Bequests.

19 Cha. 1.
Sess. 3, ch. 1.
10 and 11 Cha.
1. ch. 2. 15 Cha.
1 ch. 11.
2 Anne, ch. 10
and 19, &c. &c.

Charitable donations, in favor of Protestant Dissenters and their establishments, are held valid in Ireland, as well as in England, under the

Ves. Rep.
273.—3 P. Wil-
liam, 346. 1
Bac. abridg.
582. Gwyllim's
Edit.

Toleration act of *Will. 3.*

Even an establishment for the *education of Jews* is held to be a legal and valid Charity.

By Lord Thnr-
low, *Isaac v.*
Gomperty, ci-
ted in 7 Vesey
Junr. p. 494.

Surely, then, under all the peculiar circumstances of the present times, and especially of the People of Ireland, it would be but wise and reasonable to extend full protection to donations of every kind for Catholic charities, and for the decent maintenance of Catholic worship,

Facilities given
to minor ob-
jects,

7. Towards other purposes, far inferior in national importance and value, the Legislature has evinced a laudable favour; nay, has in some instances interfered to remove the impediments of family settlements, solemnly perfected.

3 Geo. 2, c. 11,
31 Ch. 2, c. 11.

Thus, a *Tenant for life*, with immediate remainder to his issue, is empowered to grant twenty acres of land for ever, towards endowing a Rectory with glebe.

23 and 4 Geo.
3, c. 49.

A tenant in tail, in possession, may grant forty acres of land for the like purpose,

Tenants *for life*, in tail, or in fee, Corpora- CHAP. I.
 tions, bishops, and dignitaries, may grant one 19. Geo. 2, c. 16,
Sect. 3.
 acre of land for ever, for the purpose of build-
 ing a new Church.

The like powers are, by various statutes, 5 Geo. 3, c. 20.
Sec. 3. 7 Geo. 3.
c. 8, 17 and 18.
Geo. 3, c. 15.
1 Geo. 3, c. 8.
21 and 22 Geo.
3. c. 37. 25.
Geo. 3. c. 35.
25 Geo. 3, c.
62. 27 Geo. 8,
c. 31. 27 Geo.
3, c. 57. 3 Geo.
3, c. 34. 5 Geo.
3. c. 9. 27 Geo.
3. c. 20, &c. &c.
 granted to tenants *for life* (or for other limited
 estates) for granting lands for ever, or for very
 long terms, in order to encourage the building
 of County infirmaries, hospitals, fishery houses,
 mills, corn-markets, light-houses, watch-houses,
 Dublin work-houses, Charter-shools—for en-
 couraging bleach-greens, linen manufactures,
 and other local and partial objects. Even the
 legal impediments of infancy, of trusts out-
 standing, &c. are, in many instances, removed in
 order to facilitate the purposes we have
 enumerated.

Yet no facility is afforded by law, nay, the Catholics alone
are disabled
from endowing,
&c.
 bare permission is not accorded—to a person pos-
 sessing full dominion over his property, for
 exercising his benevolence towards objects, so
 necessitous and so interesting, so extensively
 important and valuable—as those of Catholic
 education, and the maintenance of ministers and
 houses of worship for the people of Ireland.]

CHAP. I.

Willingness of
opulent Catho-
lics to contri-
bute.

Public benefit
of affording en-
couragement
in this respect.

Just claims of
Catholic chari-
ties, &c. to pub-
lic support.

8. Many opulent Catholics are fully sensible of the destitute state of their community in these respects, and of the public advantages which would result from an amelioration. They are willing to contribute liberally for this purpose, by donations and bequests; and, perhaps, to a larger amount than is generally imagined. Few of all the plans, upon which public edifices are erected, or legislative encouragement afforded, in Ireland, would tend more to improve, and even embellish, this country, than that of raising a multitude of such Structures throughout Ireland, suited to the exigencies of the People, supported by their gratitude, and providing accommodation for their public instruction, their poor, and the celebration of the rites of the national Religion. The general deficiency of Ireland, in this particular, has been a subject of surprize and regret to every stranger, who has cast his eyes over the face of this country. The cause is now manifest.

That the Catholics are well entitled, upon every principle of public policy and justice, to claim a share, and a *large share*, of the public revenue of Ireland, for the decent maintenance of their Pastors, houses of worship, schools, and other charitable objects, is a proposition pretty clear to the eye of reason: their numbers, industry, and im-

portance, the vast aids they afford to the state, CHAP. I.
 and the national advantages and expediency of Injustice of
this prohibi-
tion.
 the measure itself, must silence every doubt upon
 the subject. Yet they are not only precluded
 from their just share of support, (for we cannot
 stoop to notice the miserable pittance which an-
 nually insults the Maynooth establishment) but
 they are *denied the permission to defray those*
charges out of their own means, and to secure
the due and permanent appropriation of their
money towards the fulfilment of their benevolent
intentions.

9. No liberal mind can review the Narrow policy
of the Irish
Legislature.
 conduct of the Irish Legislature, in this particular,
 without extreme disgust.

Altogether, it exhibits the narrowest policy,
 the grossest abuse of power, the most stupid
 neglect of an interesting public duty. We see
 them, habitually, regardless of the great trust
 of honestly superintending the most awful public
 institutions—adverse to every measure for pro-
 viding or permitting any support for the
 national form of worship—negligent about the
 education of the great mass of the People,
 the improvement of their habits, the comforts
 of their Pastors and Teachers: and, indeed,
 generally cold and indifferent to the amelioration

CHAP. I. or future fate of their fellow-countrymen,
 Negligence of the Legislature. their tenants, labourers, &c.—whose money
 and labour they have, nevertheless, always
 deigned to accept, without offering any equi-
 valent in return.

Finally, the Irish Legislature, as we have
 observed, in the very hour of their extinction,
 raised this lasting monument of their uncharitable
 spirit: the Statute of 1800, creating the corpo-
 ration of “ Commissioners for discovering Cha-
 ritable Bequests in Ireland.”

CHAP. II.

Of the Laws which deny to the Catholics the right of sitting and voting in the Houses of Legislature : and herein, of the Elective Franchise, as enjoyed in Ireland.

1. **EXCLUSION** from all share in the Legislative power is a grievance of so weighty a nature, and especially under the present system of Government in this Empire, that it claims our principal attention, next after the subject of the foregoing chapter. Its effects are daily and severely felt throughout Ireland.

Severity of this exclusion.

Not only is the station of a Legislator of the first dignity and value, in a country where the Legislature is *omnipotent*, but it is even necessary to the safety and protection of every man in his life, liberty, and property, that he should enjoy, equally with his fellow-citizens, the right of sharing in the power of Legislation. To be debarred from this right—to receive laws from the will of others, who may have few common interests with him, and fewer sympathies—nay, whose interests and feelings may sometimes be directly hostile to his ; to feel himself, in every

Its dangers to life, liberty, and property.

CHAP. II. respect, at the mercy and disposal of other persons—is a condition of society, which a reflecting man must acknowledge to be very dissimilar to that of Freedom. He might, perhaps, prefer a system of avowed practical despotism.

Severity of this exclusion.

Arch-deacon Paley's description of the worst species of despotism.

Mor. and Polit. Phils. vol. 2. 181.

Degrees of slavery compared

Arch-deacon Paley has well observed, that
 “ *One* tyrant cannot exercise oppression at so
 “ many places at the same time, as it may be
 “ carried on by the dominion of a *numerous*
 “ privileged order over their respective depend-
 “ ants.-----*Of all species of domination this*
 “ *is the worst*: the freedom and satisfaction of
 “ private life are more constrained by it than
 “ by the most vexatious law, or even by the
 “ lawless will of an arbitrary monarch—from
 “ whose knowledge and from whose injustice the
 “ greater part of his subjects are removed by
 “ their distance, or concealed by their ob-
 “ scurity.”

The known principles of human conduct, and the uniform evidence of history, confirm and illustrate Dr. Paley's observation. Where a people happen to be subject to the will of one man, their fate will depend upon the accidental character of their master. It may be alleviated, or, perhaps, improved by his virtues, his talents, or his sense of his own interests. His vices or his follies may, indeed, prove mischievous: but

they are easily checked : they die with him, at last, and never ripen into the awful magnitude of a permanent system. But, where the masters are many in number, each having a separate personal interest distinct from that of the public, sufficient to excite him towards his own aggrandizement, but not to restrain him by a due solicitude for the general welfare or national character---there, indeed, the fate and prospects of the enslaved class are gloomy and distressing in the extreme. They can expect but little protection or justice from their masters, of whatsoever denomination.

CHAP. II.

Miseries of servitude under many masters.

Montesqu :
Esp: des Loix
Lib. 15. ch. 12.

2. Before we enter upon the sad enumeration of hardships, which will be unfolded in the ensuing chapters, we are anxious to obviate misconception of our motives and feelings.

This Statement, extorted from our sufferings, may possibly be termed an invective against our Protestant fellow-subjects. Far be such an intention from our thoughts. We solemnly disclaim it:---We know the benignity of nature, the generous and enlightened feelings, which belong to our estimable fellow-countrymen. We impute to *them* no innate hostility, no injustice, no oppression, no illiberal principles. But we complain of the Anti-Catholic Code of Laws,

Disavowal of imputation against the Protestants.

CHAP. II. which necessarily produces a hostile disposition. We complain only of the injustice and oppression which those intolerant laws continually create and prolong—Laws, which invest the ruling class in Ireland with a monopoly of power, not to be trusted with safety to any body of men whatsoever—Laws, which taint the early thought, vitiate the education, pervert the heart, mislead and darken the understanding. Such a Code, in our opinion, must necessarily corrupt the practice of those, whether Catholics or Protestants, whom it would profess to exalt ; and must debase those, whom it would distinguish with excessive privileges and power.

The intolerant
Laws and Sys-
tem are alone
complained of.

SECTION II.

How the Catholics are excluded from the Legislature.

This exclusion
originated in
1691.

3 Will. and
Mary, ch. 2.
Engl.

1. UNTIL the year 1691, the Catholics were admissible by law into both the Houses of Legislature, in Ireland. Their exclusion was effected by an English Statute of this year.

The English Parliament, exercising in those days the jurisdiction of binding the people of Ireland by laws expressly naming Ireland, passed

an Act declaring, that the provisions of a former CHAP. II.
English Act, (namely the 30 Cha. 2, stat. 2, ch. 1.) should extend to Ireland.

Statute of
30 Cha. 2:
English :
extending to
Ireland.

It was thereby enacted, “ That no person,
“ who shall be a Peer of the realm, or member
“ of the House of Peers, shall vote or make his
“ proxy in the House of Peers of Ireland, or
“ sit there during any debate in the said House
“ of Peers : And that no person, who shall be
“ a member of the House of Commons in Ire-
“ land, shall vote in the House of Commons, or
“ sit there during any debate after the speaker
“ is chosen.

English Statute
of 1692.

Excluding all
Catholics from
Parliament.

“ Unless he shall first take the Oaths of Al-
“ legiance *and Supremacy* ; and make and sub-
“ scribe the Declaration in the said Act men-
“ tioned, against Transubstantiation, the sacrifice
“ of the Mass, Idolatry of the Church of Rome,
“ invocation of the Virgin Mary or of the
“ Saints, &c.

“ If any Peer or Commoner offend against this
“ Act, he becomes subject to a Penalty of 500*l*.
“ recoverable by any common Informer, and to
“ all the punishments of a Popish recusant
“ convict :

“ To a disability of holding any office or place
“ of trust under the Crown, civil or military :
“ of suing or defending himself in any Action

CHAP. II. “ or suit at Law or in Equity : of being Ex-
 “ ecutor or Guardian, or taking any Legacy or
 “ Deed of Gift, &c. &c.

Adopted by
 the Irish Par-
 liament.

Whether this assumed power of binding Ire-
 land by an English Statute ought to have been
 submitted to, or not, we need not stop here to
 inquire—It suffices to know, that it *was* submitted
 to: and that a Catholic Peer or Commoner was
 not likely to question it with success, or perhaps
 with safety. That the Irish Parliament acquiesced
 in it, is pretty evident from a Statute
 passed by them in 1697, whereby “ a Pro-
 “ testant marrying a Catholic was disabled
 “ from sitting or voting in either House of
 “ Parliament.” This Act would have placed
 the Protestant, so married to a Catholic, in a
 worse situation than that of a Catholic Peer or
 Commoner, if the latter had not been deemed
 already excluded by the English statute of 1692.

9 Will. 3. ch.
 3. Sect. 2.

2. The authority of this Statute then
 being uniformly recognized, the doors of Parlia-
 ment have ever since remained closed against the
 Catholics. Moreover, care has been taken to re-
 move all doubt in this respect.

This exclusion
 again confirm-
 ed, in 1782, by
 the Irish Par-
 liament.

In 1782, upon the general renunciation of this
 assumed power on the part of the English Par-
 liament, and the restoration of legislative inde-

pendence to Ireland, the friends of the Protestant CHAP. II.

Ascendancy became alarmed, lest, in the national History of this
exclusion.
enthusiasm for freedom, the chains of the suffering

Catholic might be loosened, It was apprehended, that this renunciation might, by a retrospective

operation, defeat the policy of the English Sta- Confirmed in
1782.

tute of 1692, amongst many others—and that the

Catholic might thus chance to re-enter the sanc-

tuary of the Legislature. As a barrier against

Catholic hope, it was therefore enacted, “ That

“ all clauses in English Statutes, relating to the

“ taking of oaths or making or subscribing any

“ declaration or affirmation in Ireland, or to pe- 21 & 22 Geo.3.
c. 48. Sect. 3.

“ nalties or disabilities in cases of omission,

“ shall be in force in Ireland, *according to their*

“ *present tenor.*”

The Irish Parliament, having thus confirmed this exclusion of Catholics, thought proper to re-new their vigilance in 1793.

The Statute of 1793, professing to be “ An This exclusion
re-enacted in
1793 by the
Irish Parlia-
ment.
“ Act for the further relief of the Catholics of
“ Ireland,” has expressly reserved and re-enacted

a great number of the most grievous privations,

disabilities, and incapacities, which, however ob-

solete, still existed in the Statute Book. This

dormant prohibition against the admission of

Catholics into either House of Parliament was

CHAP. II. found amongst others, and was renewed. The

History of this exclusion. clause runs thus:

33 Geo. 3,
ch. 22. Sect. 9. “ Provided always, that nothing herein con-
tained shall extend, or be construed to extend,
“ to enable any person *to sit or vote in either*
“ *House of Parliament* [or to hold any of the
situations here enumerated, and comprizing al-
most every thing desirable in the state] “ un-
less he shall first have *taken, made, and sub-*
scribed the oaths and declaration, and per-
formed the several requisites, which by any
law heretefore made and now of force are
required, to enable any person to sit or vote
as aforesaid.”

No Catholic
can take the
oaths, or sub-
scribe the de-
claration re-
quired.

3. Such is the system of regulations, which, (thro' the medium of Test oaths and declarations of a purely religious nature) denies to the Catholic all share in the right of Legislation. Need we argue, that no Catholic can conscientiously take the oaths, or subscribe the Declaration, required by the English Parliament of the 17th century? We hope not. To declare (and to invoke the Almighty to attest the declaration) that the King is the “ *Caput Ecclesiæ* ;” that no foreign power hath, or ought to have, any pre-eminence, ecclesiastical or spi-

ritual : or, in other words, that the consecrations of Catholic Bishops are, and ought to be, invalid, even though they claim only the precedence due to Orders, not to jurisdiction : that the sacrifice of the Mass, the doctrine of Transubstantiation, and the religious usages of his family and friends, are *idolatrous and superstitious* :—to declare all this, contrary to his sacred belief, or even with a doubting conscience, would be, not merely a base and shameless act of sacrilegious hypocrisy, unworthy of any man, who pretends to common feeling, shame or integrity, but a public and unpardonable mockery of the All-seeing Deity, practised under the cheating semblance of Religious conformity.

CHAP. II.

No Catholic
can assent to
the Oaths or
Declaration.

SECTION III.

Operation of this Exclusion,—as to the House of Peers.

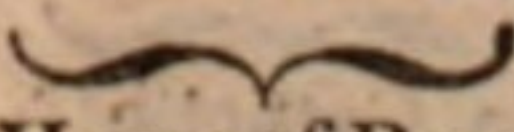
1. HAVING stated this article of Exclusion, according to the *letter* of the Law, we shall next advert to its *extent* and *operation* in Ireland.

Extent and
operation of
this exclusion.

1. As to the House of Peers.

2. As to the House of Commons.

CHAP. II.


House of Peers

Its powers and
privileges.

1. The Honors of the Peerage, the profitable rank and effective power attached to it, the personal benefits derived from that rank and power, not only to the individual Peer, but also to the wide circle of his family and connections, are objects deservedly high in the estimation of all, who are gifted with superior minds, or capable of noble exertions. They are valuable in the eyes of any person, who looks around him, and observes, even cursorily, the present state of society.

2. Let us take a short view of the extent, to which these honors and privileges are now enjoyed.

The Lords Temporal, who sit and vote in the Parliament of the United Kingdom, exceed 340 in number. Taking only the period of his present Majesty's reign, comprising about *fifty* years, we find 250 creations to Peerages in England, and nearly an equal number in Ireland; forming a total, not far short of 500. Of these, however, several are extinct.

Nearly 500
peerages, be-
stowed within
fifty years.

The Books of Peerage will satisfy any reader, how very large a proportion of these 500 Personages have raised themselves from the rank of Commoners, perhaps from a mere equality

with their Catholic neighbours, even within these last *thirty* years. Some few may have been indebted to accidental causes for their elevation ; many to the display of eminent virtues, talents, or other splendid qualifications : all, however, may have had cause to feel, that the Laws afforded exclusive encouragement to *their* services and claims, and ready rewards for their comparative merits. Nor do we presume to insinuate any diminution of those merits, when we offer the observation, naturally growing out of this subject—that these 500 personages have been thus selected and distinguished, not from amongst the people of these realms at large, but from amongst the members of a favoured religious community, who, in Ireland, do not amount to one Tenth part of the population.

CHAP. II.

House of Peers

The Honors
limited.

If, therefore, these honors be great, the competition for them must be recollected to have been necessarily very limited, and especially in Ireland.

Now it will scarcely be denied, that some portion of talent, virtue, or other claims to honorary distinction must naturally have been dispensed by Providence to the Catholics of Ireland, during the period we have taken. So large a number of Christians as Four Millions, dwelling

Natural claim
of Irish Catho-
lics to a share
in these honours
and rewards,

CHAP. II. in the immediate vicinity of enlightened nations,
 House of Peers cannot in the ordinary course of affairs have been
 so utterly abandoned by nature, so long uncultivated and sunk in stupid torpor, as to have remained altogether destitute of individuals, whose merits might have laid claim to a participation of those rewards. Perhaps many brave Captains, many upright statesmen, many useful legislators, might have arisen amongst the Catholics of Ireland, if the Laws had not frowned upon their early hopes, and paralyzed their exertions. Who will affirm, that there might not have appeared amongst them a Rodney or a Nelson, a Hutchinson, a Moira, or a Moore, to swell the triumphs, and spread the renown of his Country, if the grand incentives, public Reward, Respect, and Rank, had been permitted to dawn upon his youthful prospects? How many, at this moment,—bereft of hope and of emulation, are the withering votaries of inglorious indolence! How many desponding Catholics now stagnate in obscurity, or pine in wasting chagrin, who could reflect ample honor upon their country, if they might hope for honour in return! But, without chance of reward, without an object worthy of exertion, they now languish unnoticed and useless.

Natural claims
 of the Catholics
 to participation.

Their talents
 and virtues
 discouraged.

—— Virtutem quis amplectitur ipsam,

Præmia si tollas? ———

3. The exclusion of the Catholics CHAP. II.
 from the honors and benefits of the Peerage House of Peers
 operates, therefore, like their exclusion in other
 cases, equally to the detriment of the public, and
 to the depression of the individual.

For it is really but a puerile and confined Vulgar error
refuted, that
only ten Catho-
lic Peers are
aggrieved,
 view of this interesting subject, to argue, as
 some have recently argued, that "there are not
 " more than about ten Catholic individuals actu-
 " ally aggrieved by this exclusion. The number
 " of Catholic Peers," say they, "does not exceed 7-
 " in England, 8 in Ireland, and 2 in Scotland ;
 " not more than two or three of the Irish and
 " Scotch would probably be elected as represen-
 " tative peers : the united number therefore, would
 " not exceed *ten*—and these are the only persons
 " entitled to complain."

This reasoning is palpably fallacious. Accord-
 ing to the *letter* of the Constitution, every situ-
 ation of honor, trust and power, ought to be ac-
 cessible to *every* citizen. In daily practice the
 Protestants enjoy the full benefit of this principle.
 It is withheld from the Catholics. All access to
 the honors and powers of the Peerage is closed
 against every Catholic. Even the hope of ever
 attaining any participation in them is denied.
 This exclusion operates as a bar against every
 Catholic, who might, otherwise, reasonably ex-

CHAP. II.

House of Peers

*Every Catholic
is aggrieved by
this exclusion.*

pect to count the ennobling of his name amongst the possible events of his future life, and whose actions might accordingly be influenced by this incentive. It damps his industry, impairs his energies, and insults his feelings,—whilst no similar impediment stands in the way of his fellow subjects of other persuasions. The Catholic is deprived of a powerful spring of action, which might have impelled him to deeds of the highest value to his reputation and interests, and of the most signal advantage to his family and his country. Therefore, this exclusion, by the partiality of its principle and the general mischief of its spirit, inflicts a wide-spreading injury, not merely upon a few Catholic Peers, but upon the Catholic community at large,

*The ancient
Catholic Peers
peculiarly un-
fortunate.*

4. That the ancient Catholic Peers are peculiarly aggrieved by this exclusion, will readily be admitted, Survivors of the stormy persecutions of centuries, they present at this day a disheartening spectacle of shattered greatness. Blameless in private life, circumspect in the narrow sphere of their public conduct, they are, nevertheless, treated with ignominious distrust. A Catholic Peer indeed, stands in a singularly distressing predicament. He is subject to all the responsibility and charges of ostensible

rank, yet bereft of its incident patronage and power ; nay, debarred, by honor and etiquette, from many pursuits, many means of providing for his children, which are free to a Commoner ; from all enterprizes of trade, from all gainful occupations of a merely pecuniary nature. The professions of arms, diplomacy, and literature, afford the sole legitimate pursuits, in which a nobleman is permitted to seek for wealth or advancement. From these pursuits the Catholic Peer is deterred by the letter of the Laws, or by their necessary operation. Still more galling to a well-constituted mind, must be the state of systematic insult and contempt, to which the Catholic Peer is exposed. His conspicuous rank points him out to continual notice, and as a *mark* for hostility ; whilst his powerless and unprotected condition invites repeated aggression, and prostrates him before the slights and spurns of official insolence. Poverty, obscurity, personal privations—these might be tolerable ; but, alas ! to be made

CHAP. II.

House of Peers

Peculiar severity affecting ancient Catholic Peers.

Subject to slights and scorn.

A fixed figure for the time of scorn

To point his slow unmoving finger at—

Oh ! *this is too much !*

CHAP. II. A late Catholic Peer (Lord Petre) universally
 House of Peers revered for his valuable endowments of head and
 heart, has feelingly complained of this exclusion,
 as amounting to little short of a *personal* impu-
 tation. In pathetic language he thus vents his
 indignation :

Reflections,
 &c. by the late
 Lord Petre—
 Booker, 1804.

Upon the in-
 sult and dis-
 grace of this
 exclusion.

“ Is it not *an insult* to me, *to be debarred*
 “ *from exercising my hereditary right* of legis-
 “ *lating in the Peers’ House of Parliament,*
 “ *merely because I will not take oaths, and*
 “ *subscribe declarations, of which my conscience*
 “ *disapproves—and to be cruelly told, in the*
 “ *same breath, that any oath I may take can-*
 “ *not be depended upon? Is it not disgraceful*
 “ *to any man of honor to stand as an object*
 “ *of suspicion, and the victim of, at least, an*
 “ *implied stigma, in his native land, for no other*
 “ *reason, but because he prays to God in his*
 “ *own way, and professes the Religion of, not*
 “ *only his forefathers, but the forefathers also of*
 “ *those very persons, who impose restraints upon*
 “ *him, and are, at the same time, ready to express*
 “ *the highest veneration for their ancestors in*
 “ *other respects.*”

Catholic Peer
 doubly disqua-
 lified as Legis-
 lator and as
 Elector.

We close this view of the disabilities
 which peculiarly affect the Catholic Peers, by
 observing that, as the law now stands in Ire-
 land, the Catholic Peer is precisely the only man

in the community, who is *wholly disqualified*, CHAP. II.
not only from sitting or voting in either House of ^{House of Peers}
Legislature, but also from voting at the election _____
of a member for either.

By the express words of the Act of Union, he <sup>40 Geo. 3.
ch. 29. Sect. 4.</sup>
 is disabled from voting at any election of a re-
 presentative Peer to serve in the Parliament of <sup>Catholic Peers
doubly disqua-
lified.</sup>
 the United Kingdom; and, by the standing order
 of the House of Commons against the interfer-
 ence of Peers, he is forbidden to interfere or vote
 at the election of any member of the Lower House
 of Legislature.

SECTION IV.

“ As to the House of Commons.”

1. THIS exclusion is still more im- <sup>House of Com-
mons.</sup>
 portant in its extent and operation. It comprizes a
 greater number of situations of trust and power—
 amounting at present to 658. These 658 mem-
 bers and their connections are in continual con- <sup>The extensive
operation of
this exclusion.</sup>
 tact with the people of all descriptions; they
 transact a great quantity of public business—
 controul the public purse, correct abuses, crimi-
 nate delinquents. They have frequent oppor-
 tunities of manifesting personal favour or ill-will:

CHAP. II. of benefiting or enriching their private friends:

House of Com. of injuring or despoiling the obnoxious or de-
mons.

fenceless. Moreover, the frequent changes of its numerous members, the variety and fluctuation of its proceedings, render this House far more instrumental, than the upper House can be, in widely diffusing the effective influence of Legislative power.

Their great numbers, and wide influence.

General effects of this exclusion.

2. Let us keep in mind, that it is not so much to the purpose to inquire, what may be the precise number of Catholics *actually excluded* from the Legislature, as to consider how many are excluded from all chance of *participation* in it; and what must be the general effect of such exclusion upon the interests and feelings of the Catholic body.

The qualified Catholics, excluded from any chance of participation, exceed 30,000.

The number of Catholics qualified for seats in the Legislature, (if learning, talent, landed estates, or commercial wealth be admitted as a qualification) probably exceeds *Thirty thousand* persons. These men stand personally proscribed by the existing exclusion, whilst their Protestant neighbours find every facility for ready admission.

Personal advantages of a seat in the Legislature.

But the advantages flowing from a seat in the Legislature, it is well known, are not confined to the *individual representative*. They extend to all his family, friends, and connections;

or, in other words, to every Protestant in Ireland. CHAP. II.
 Within his reach are all the honors, offices, ^{House of Com-}
 emoluments : every sort of gratification to avarice ^{mons.}
 or vanity : the means of spreading a great per-
 sonal interest by innumerable petty services to
 individuals. “ He can do an infinite number
 “ of acts of kindness and generosity, and even of
 “ public spirit. He can procure advantages in
 “ trade, indemnity from public burdens, prefe-
 “ rences in local competitions, pardons for offen-
 “ ces. He can obtain a thousand favours, and
 “ avert a thousand evils. He may, whilst he
 “ betrays every valuable public interest, be, at
 “ the same time, a benefactor, a patron, a father,
 “ a guardian angel to his political adherents.”
 On the other hand, how stands the Catholic gen-
 tleman or trader ? For his own person, no office,
 no power, no emolument ; for his children, bro-
 thers, kindred, or friends, no promotion, eccle-
 siastical or civil, military or naval. Except from
 his private fortune, he has no means of advancing
 a child, of making a single friend, or of shewing
 any one good quality. He has nothing to
 offer but harsh refusal, pitiful excuse, or despon-
 dent representation.

Contrast be-
 tween the pri-
 vileged Protes-
 tant and the
 proscribed Ca-
 tholic.

CHAP. II.

House of Com-
mons.

Derivative be-
nefit to the en-
tire Protestant
community.

3. Further, we may observe the powerful effect of *Opinion* upon this subject. The personal importance, the conscious independence, the sense of security and protection, which belong to the Legislative character, are participated with hundreds of persons without doors—whom the Representative may be desirous to court, or whose interests or sympathies may accord with his own. In Ireland, these persons are, almost universally, of the Protestant profession; connected with the Member by the ties of family or of friendship, of early acquaintance, education, or reciprocal services. Besides, they already enjoy exclusive power and privileges—and therefore can command the respect, and pre-occupy the exertions of the Member. Perhaps, they are not without the prospect of seats for themselves. Hence, every Protestant feels himself, and really is, more firm and secure in the favour of the Laws, more powerful in society, more free in his energies, more elevated in life, than his Catholic neighbour of equal merit, property, talents, and education. He alone feels and possesses the right and the legal capacity to be a Legislator—and *this consciousness is actual power.*

SECTION V.

Further Consequences, injurious to Catholics.

1. UNDER this Exclusion, then, Depression of every Catholic.
 from both Houses of Legislature—Property, talents, virtues, public services—all are equally ineffectual for the advancement, or even security, of the Catholic in Ireland. Whilst his fellow-citizens are enjoying their full measure of freedom, and basking in the sunshine of the Constitution, he is repulsed with scorn, and cast into darkness. Shut out from influence over any member of Parliament, from connection or political sympathy with him, he is shut out from every thing, in an Empire like this, where every thing depends upon Parliamentary influence and consequent patronage. He finds no access to any of Mischief of this exclusion to the Catholics. those offices or employments, which the Statute of 1793 has (seemingly, and in tantalizing terms) laid open to him. They are all pre-occupied by patronage.

2. His property may be taxed—In property. iniquitously so—without his assent or knowledge.

His personal liberty may be circumscribed by Liberty. Laws enacted, either designedly to affect him,

CHAP. II. or in total ignorance or disregard of their operation.

Reputation.

His reputation may be assailed and traduced with impunity, without the means of vindication.

New Laws annually to their prejudice.

Even the exclusions, incapacities, and disabilities already existing against him, are annually multiplied by the Legislature, directly or indirectly, through various Statutes.

General stigma and insecurity inflicted by this exclusion.

3. Thus the Irish Catholic, far from possessing the consciousness of Freedom, feels himself to be an insulated and stigmatized being, without patron or powerful friend, or the means of acquiring one: destitute of credit or weight, and degraded below the level of persons, who, in many instances, are morally and physically his inferiors, though politically his masters. Even his merits or talents are dangerous to him, if developed. They excite alarm and suspicion. Power is distrustful, and ignorance illiberal. The innocent and deserving Catholic becomes the victim of both, *in the day of persecution.*

4. On the other hand, were Catholics eligible to seats in the Legislature—were there only ten Catholics in the Upper House, and twenty in the lower House (which is a probable estimate for the first ten years) how many mischiefs and errors might be avoided, how many useful projects formed and accomplished!!! No Protestant member, however upright and enlightened, can be expected by the Catholics to be constantly prepared to protect their property from unequal impost in Parliament, their rights from aggression, their fame from calumny, or their Religion from gross misrepresentation. Catholic Members, and they alone, would prove competent to those tasks. A Member of this description, duly qualified, speaking upon the affairs, complaints, and interests of his own community, could readily falsify the fabricated tale, refute the sophistical objection, unravel the apparent difficulty, state the true extent of what is desired, and what is practicable. Such a Catholic, actually knowing the condition of his fellow-sufferers, could put down a calumny in the instant of its utterance; and this, not merely by contradicting it, but by referring with promptitude to existing documents, facts, and authorities—by quoting time,

CHAP. II.

Public advantages of rendering Catholics eligible to the Legislature

Errors would be avoided.

Calumnies exposed.

CHAP. II. place, and circumstance, and bringing within the immediate view of the House and the public the necessary materials of refutation.

Illiberal Laws
would not
be proposed.

If an illiberal or unjust Law should be insidiously or ignorantly proposed, he could arrest its progress. He could check every attempt to impose new restraints upon toleration, and detect intolerance under its most wily disguises, whether of education or charity, military aid, or Religious zeal. If, under any of those specious pretexts, measures should be brought forward, really calculated to foster false prejudices, to prolong intestine divisions, or to abet a barbarous and obsolete policy, he could expose the lurking mischief; he could, from local knowledge, unfold the inconvenience, inadequacy, or injustice of such measures; explain their probable operation, and perhaps point out the means of attaining their professed objects, by measures more mild and legitimate. We should, probably, no longer hear of men starting up in Parliament, gravely vouching for facts, which either have never occurred or have been egregiously misconceived, and availing themselves of the accident of being Irishmen, or having seen Ireland, to give currency to the grossest delusions upon their English audience.

Useful Laws
would be facilitated.

Mistatements
checked.

Such men would not attempt those practices in the presence of a competent Catholic member: or, if once attempted, would find little encouragement to repeat them. They would abandon the occupation of misrepresenting the Catholics, as unprofitable and unavailing. And this would be, in itself, no small advantage gained by the Catholics and by the empire.

CHAP. II.

Advantages of
rendering Ca-
tholics eligible.

5. Still further, the very habits of Catholic Members, and their intimate acquaintance with the wishes and condition of their fellow-Catholics, would naturally assist the Legislature in acquiring a better knowledge of the people of Ireland; in learning their real means and wants, their local and general interests. Public measures upon an enlarged and comprehensive scale might, then, be more safely proceeded upon, and more directly facilitated. The Legislature would embrace an enlarged representation, for the benefit of Millions—now unrepresented. An improvement of the highest value, and of the most popular nature, would take place in the Constitution of Parliament, without innovation or disturbance of established systems—or any greater effort than merely that of restoring Four Millions of Catholic citizens to their ancient place in their country.

The Irish People would become better known to Parliament.

A salutary Reform would be effected in Parliament, without innovation.

CHAP. II.

Thus, by a single act of justice, moderate and constitutional, a salutary reform in Parliament might, to a certain degree, be attained : and thus these realms might become in reality, as they now are in name only, an United Kingdom.

Finally, the enlightened Statesman may truly observe of this exclusion of the Catholics from both houses of Legislature, “ Continue this Exclusion, and the removal of all the other grievances will be of little value, and of no permanent security to the Catholics, or to the Empire. Remove this Exclusion, and the other grievances cannot long survive.”

Paramount importance of restoring Eligibility of Catholics to serve in Parliament.

SECTION VI.

“ Of the Elective Franchise, as enjoyed by the Catholics.”

1. THE Elective Franchise, or right of voting at the election of Members of Parliament, is supposed to have been wholly restored to the Catholics by the Statute of 1793. Let us inquire what is the fact.

In 1727, the Catholics of Ireland were de-
 prived of this right, by Act of Parliament. CHAP. II.
 It was enacted, "That no Catholic shall be Catholics dis-
franchised in
1727.
 "entitled or admitted to vote at the Election of 1 Geo. 2. ch. 9
Sect. 7.
 "any member to serve in Parliament as a knight,
 "citizen, or burgess ; or at the Election of any
 "magistrate for any city, or other town cor-
 "porate ; any law, statute, or usage to the con-
 "trary notwithstanding."

Thus, the Catholics were stripped of the Elec-
 tive Franchise—and thus they remained during
 sixty-six years.

In 1793 it was enacted, in substance, "That Conditionally
reinstated in
1793.
 "every Catholic should be qualified to vote at
 "such Elections, upon his producing to the 33 Geo. 3. c.
21. Sect. 7, 14
15, 16.
 "returning officer a certificate of his having taken
 "and subscribed certain oaths and declarations
 "required by that act."

But, by a subsequent Statute of 1797, termed Election Act
of 1797.
 the Election Act, it was declared, that Catholics,
 who qualify *previous to the teste of the writ*
of Election, shall be deemed to have qualified 37 Geo. 3. c.
47. Sect. 19.
 within the meaning of those Statutes of 1793
 and 1797, in order to entitle them to vote at such
 Elections. Upon these two Statutes a question
 arose, which for some time imposed new difficul-
 ties upon the Catholic franchise.

CHAP. II.

Impediments
to Catholic vo-
ters.

Under the Statute of 1793 a Catholic might have qualified *at any time* previous to tendering his vote. By the Statute of 1797 it appears to have been understood, that he should qualify *previous to the teste of the writ of Election*, which may be thirty days previous to the election. Opposite decisions upon this question were made by returning Officers, and very many Catholics were consequently disfranchised.

51 Geo. 3. ch.
77.

This difficulty has been lately obviated by a Statute, (1811,) which permits the Catholic voters to take the Oaths of Qualification pending the Election; and directs the returning Officer to open a Court for the purpose of administering such Oaths. The Catholic voter is, however, still required to qualify by taking these Oaths, as a condition *precedent* to his exercise of the Elective Franchise.

In corporate
Cities and
Towns.

2. Besides the general inconvenience of thus subjecting the Catholics to Oaths of qualification, not imposed upon Protestants, they suffer peculiar restraints and obstructions in Elections for Cities and Towns corporate.

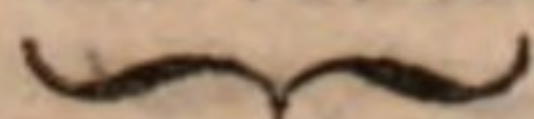
They are denied equal means of acquiring the Elective Franchise with those, which are enjoyed by the Protestants.—Catholics are scarcely ever made free by Grant: and such as become

entitled to their Freedom, by Birth or service, CHAP. II.
 are rarely admitted. Their Petitions are *cushioned*:
 and therefore, unless the Catholic acquires a
 freehold Interest in Lands or Houses within the Post. 104.
 corporate town or its liberties, and entitles him-
 self as a registered Freeholder, to vote at Elec-
 tions of Members to vote in Parliament, he re-
 mains excluded from all participation of the
 Elective Franchise—whatever be his wealth, cha-
 racter, merit, or commercial respectability. This Post. 104, &c.
 subject shall be further developed in the next Ar-
 ticle, which treats of Corporations.

Thus it appears, that the Catholics actually
 suffer much inconvenience and comparative dis-
 advantage, in the enjoyment of this right: In
 Cities and corporate Towns, the Elective Fran-
 chise as appertaining to freemen is, by the
 practices we have noticed, almost solely confined
 to Protestants—who are, therefore, in the ratio
 of at least *fifty to one* of ~~the~~ Catholic Freemen,
 in consequence of the watchful jealousy with
 which the Freedom is withheld from Catholics.
 This monopoly, then, occasions an unnatural,
 but decided preponderance of Protestant voters
 at Elections of Members for such places; con-
 trary to the professed and rightful principle
 of granting equal qualification to persons of all
 Religions,

Impediments
 to Catholic
 franchise: in
 Corporate Ci-
 ties and
 Towns.

CHAP. III.



CHAP. III.

*“Of the Laws, which exclude the Catholics
 “from Municipal Offices in Cities and
 “Towns Corporate; and herein of the
 “Corporate Franchise, as enjoyed by the Ca-
 “tholics.”*

SECTION I.

Public mis-
 chief of all
 Corporate im-
 munities; now
 generally ad-
 mitted.

THE general inconvenience and public mis-
 chief, resulting from the existence of Corporate
 immunities, are now pretty generally under-
 stood and acknowledged. Corporations, possessing
 exclusive privileges, are prejudicial to society
 at large, without distinction of religion. They
 are reprobated by the most eminent men. Doc-
 tor Adam Smith pronounces, amongst their many
~~other~~ evils, that “They are a sort of enlarged
 “monopolies; they keep up the price of labour,
 “and of particular commodities, above their
 “natural rate. They necessarily restrain com-
 “petition in the particular town to those who

Wealth of Na-
 tions, vol. 1.
 p. 91, 93, 201,
 284, &c.

“ are free of the trade ; thus depressing excel-
 “ lence, and favouring unskilfulness. They
 “ promote and encourage combinations against
 “ the public.” Archdeacon Paley more boldly
 declares, that “ Nothing so alienates the minds
 “ of the people from the Government under
 “ which they live, as a perpetual sense of an-
 “ noyance and inexpediency ; or so prepares
 “ them for the enterprizes of an ambitious Prince
 “ or a factious demagogue, as *the abuse which*
 “ *almost always accompanies the existence of sepa-*
 “ *rate immunities.*”

CHAP. III.

Paley's senti-
ments.Mor. and Pol.
Philos. vol. 2.
p. 182.

Our purpose is to detail only the additional
 means of annoyance, which the municipal cor-
 porations of Ireland possess, as superadding the
 principle of religious hostility to the general
 spirit of intolerance and jealousy, inherent in the
 constitution of all corporate bodies.

Corporations
peculiarly
vexatious in
Ireland.

This exclusion of Catholics from Cor-
 porate offices, was effected during the reign of
 Charles II. and in the year 1667. Certain
 Rules, orders, and directions were, in that year,
 promulgated and established by the then Lord
 Lieutenant of Ireland, (the Earl of Essex) and
 his privy council—purporting to regulate the
 Corporations of Ireland and the election of Cor-
 porate officers. Having been confirmed by an

Catholics ex-
cluded in 1667.17 and 18 Ch.
2. ch. 2. 82. en-
titled, An Act
for the expla-
nation of the
Act of Settle-
ment, &c.

CHAP. III. Act of Parliament, they derive of course the authority of established Law. These Rules, &c. are to be found amongst the printed Irish Statutes, (Vol. 3.—p. 205—235,) and are detailed in distinct chapters.

All Corporate
Offices, &c. in-
terdicted to
the Catholics.

But, in substance, they direct, “That no

“person shall be Mayor, sovereign, portreef,

“burgomaster, bailiff, alderman, recorder, trea-

“surer, sheriff, town-clerk, common council-

“man, master or warden of any guild, corpo-

14 and 15 Ch.
2. c. 2. s. 185.

“ration, or fraternity, or hold any such or the

“like offices in any city, walled town, or corpo-

17 and 18 Ch. 2.
c. 2. s. 82.

“ration in Ireland :

“Unless he shall have taken the Oath of

“supremacy, established by Act of Parliament,

“[2 *Elizabeth*] and certain other oaths, spe-

“cified by those Rules—(*such persons only ex-*

“cepted, with whose taking the said oath of

“supremacy the Lord Lieutenant, or other

“chief governor of Ireland for the time being,

“shall think fit, by writing under his hand and

“seal, to dispense.)”

Lord Lieuten-
ant's dispens-
ing power nu-
gatory.

Such are the Statutable regulations, ordaining

the universal proscription of the Catholic body

from all Corporate offices whatsoever. The

dispensing power, vested in the Lord Lieutenant,

has not mitigated this proscription. It does

not, upon inquiry, appear to have been ever CHAP. III.
 exercised in any one instance ; and, in fact and
 practice, it has made no difference in favour of
 the Catholics. Indeed, it may well be argued,
 that the Lord Lieutenant does not now possess it. 2 Anne, ch. 14.
Sect. 2. which
is the Irish Test
Act.
 For, (by a Statute enacted in 1704) the Oath
 prescribed by those Rules, &c. has been replaced
 by a new oath of supremacy, and *also by a decla-*
ration against Transubstantiation, the sacrifice of Lord Lieute-
nant's dispen-
sing power,
nugatory.
the Mass, and invocation of saints, which are by
 this Statute required to be taken and subscribed
 by those persons to whom the former oath (2
 Eliz.) was prescribed, *and upon the like occasion,*
and in the like manner.

Now, this latter Statute of 1704 has not
 authorized the Lord Lieutenant to dispense with
 the subscription to the Declaration, or even
 renewed or continued the former dispensing power
 touching the Oath : and therefore the power ap-
 pears to be virtually extinguished.

This exclusion of the Catholics from Corpo-
 rate Offices has been carefully confirmed and
 re-enacted by the Irish Statute of 1793, which
 declares, by proviso, “ That nothing therein
 “ contained shall enable any person to hold, ex- 33 Geo. 3.
ch. 21. Sect. 9.
 “ ercise, or enjoy *any office contrary to the rules,*
 “ *orders, and directions,* made and established by In 1793, the
Exclusion of
Catholics from
all Corporate
offices was re-
enacted.
 “ the Lord Lieutenant and council, in pursuance

CHAP. III. “ of the Act passed in the 17th and 18th years
 Re-enacted by “ of the reign of King Charles II. entitled, an Act
 the Statute of “ for the explaining of some doubts arising upon
 1793. “ an Act, entitled, an Act for the better exe-
 “ cution of his Majesty’s gracious Declaration
 “ for the settlement of the kingdom of Ireland:
 “ Unless he shall have taken the oaths, and
 “ performed the several requisites, which by
 “ any Law heretofore made, and now of force,
 “ are required to enable any person to hold,
 “ exercise, and enjoy the said offices res-
 “ pectively.”

Enumeration of
 offices inter-
 dicted.

2. IT is difficult to enumerate all the municipal situations in the various Cities and towns of Ireland, thus closed against Catholic industry and merit. In the city of Dublin alone we find the Offices following, viz.

Offices in
 Dublin inter-
 dicted, 248.

Lord Mayor and Aldermen	24
Sheriffs 2, Sheriff’s Peers 38	40
Recorder and Treasurer	2
Common Council-men	96
Masters and wardens of Guilds, about	84
Town Clerks	2

Officers 248

Passing thence to the other Cities and corporate towns of Ireland—which may be reckoned at 115 in number, (as Cork, Limerick, Waterford, Belfast, Kilkenny, Drogheda, Galway, Sligo, Derry, Cashell, Clonmell, Trim, Enniskillen, Wexford, &c. &c.) we may reasonably take the average number of Corporate offices in each at about 20: which probably falls far short of the real number, since the City of Dublin alone appears to produce nearly 250. This average number of 20 offices to each of these 115 other Corporations gives the number of 2,300; and, added to the number of 248 appearing in Dublin, will amount to a total of 2,548 Corporate offices in Ireland, comprized within this positive proscription.

CHAP. III.

In the remaining Cities and Towns, Cork, Limerick, Belfast, &c. &c.
2,300.

Total 2,548,
by express
words

3. Thus far do the *words and letter* of the Law extend; but its spirit and necessary operation reach farther. They render inaccessible to Catholics the numerous lucrative situations dependant upon, and connected with, those Corporate offices; the patronage, power, preference, and profits at their disposal. In the city of Dublin alone, the number of these dependant situations exceeds 200—including the entire Police establishment and its officers, Paving and Lighting and Pipe-water Boards,

Spirit and operation of this exclusion.

All Offices, dependant, &c. are interdicted.

In Dublin, 200 dependant offices.

CHAP. III. Commissioners of Wide Streets, Court of Con-

Dependant of-
fices, in Dub-
lin, 200.

science, Grand jury, City surveyors, craners,
collectors, clerks, secretaries, solicitors, agents,
and the various petty offices of more or less emo-
lument, derived from those Boards.

In the remain-
ing Cities and
Towns, 1000.

We may fairly estimate the number of 1,000,
as not exceeding the amount of similar minor
offices in the gift, or at the disposal, of the several

Total, 1200 de-
pendant offices
in Ireland.

Corporate officers in the remaining Cities and
towns of Ireland. This number, added to the
number of 200 to be found in the city of
Dublin, will form a total of 1,200 offices in
Ireland, from which the Catholics are excluded
by the spirit and *consequential* hostility of those
Laws, which exclude them from Corporate
offices.

Hence it will appear, that the the gross number
of offices and situations, from which this class
of Penal Laws excludes the Catholics, may be
considered as amounting—

directly, and by express enactment, to
about.....2548
*Consequentially, to about.....*1200

Total.....3748

Total of offices
&c. interdict-
ed, 3748.

Here, then, is an immense number of officers,
stationed throughout the different districts of

Ireland, invested with powers of annoying others, and of protecting and enriching themselves—which are refused to their Catholic fellow-citizens.

CHAP. III.
Cities and
Towns.

4. The great and general Dominion attached to these situations, in public and in private life, naturally separates the inhabitants of every city and town in Ireland into two very distinguishable casts—the Masters and the Vassals. The vexations, insults, and other mischiefs flowing from this Municipal system, almost baffle calculation, and can scarcely be even imagined, save by the actual sufferers. Let us, however, attempt a cursory outline.

Inhabitants divided—Masters and Vassals.

Hence, incalculable vexations.

All Catholic merchants, tradesmen, and artisans; all the immense variety of petty dealers and handicraftsmen, shop-keepers of every kind, smiths, carpenters, masons, shoe-makers, weavers, &c. &c. are under a necessity (for subsistence sake) of residing in these cities and towns, and under the yoke of Corporate power. Perhaps these men and their families amount in number to some *hundred thousands* of the most useful, laborious, and valuable citizens of Ireland. Such persons, in any well regulated State, would be deemed fit objects of favor and encourage-

To Catholic merchants, artisans, masons, weavers, &c.

CHAP. III.

Vexations to
Tradesmen.

Debased.

Depressed.

Defrauded.

Annoyance to
Catholic Gen-
tlemen.

Professional
men.

Farmers.

Catholic indus-
try and skill
discouraged.

Protestant in-
dolence che-
rished, wants
supplied, &c.
&c.

Patrician sway
of Protestants.

ment, at least of protection. But, in Ireland, their lot is grievous. They are debased by the galling ascendancy of privileged neighbours. They are depressed by partial imposts; by undue preferences, and accommodation bestowed upon their competitors; by a local inquisition; by an uncertain and unequal measure of justice; by fraud and favouritism daily and openly practised to their prejudice. The Catholic gentleman, whose misfortune it may be to reside in or near to any of these cities or towns in Ireland, is hourly exposed to all the slights and annoyances, that a petty sectarian oligarchy may think proper to inflict. The professional man risks continual inflictions of personal humiliation. The Farmer brings the produce of his lands to market under heavier tolls. Every species of Catholic industry and mechanical skill is checked, taxed, and rendered precarious.

On the other hand, every species of Protestant indolence is cherished and maintained; every claim is allowed; every want supplied; every extortion sanctioned—nay, the very name of “Protestant” secures a competence, and commands Patrician pre-eminence in Ireland.

Hence, the peculiar misery of Irish Corporate towns; the general ignorance and unskilfulness of their tradesmen; their dear charges for labour; irrational combinations; abject poverty; squalid exterior. These and numberless similar mischiefs are solely attributable to this perverse and unnatural system of Penal Laws—which confounds all ordinary principles of human action, and frustrates the most hopeful projects of benevolence and patriotism.

CHAP. III.

Hence the misery of Corporate Towns in Ireland, unskilful tradesmen, &c.

5. Yet the Public have been confidently and continually told (it has even been admitted, but inadvertently, by some of the advocates of Catholic freedom) *that the Catholics and Protestants have been placed upon a perfect equality by the Statute of 1793, save as to seats in Parliament, and about thirty or forty of the higher situations in the state, as Lord Chancellor, General, Privy Counsellor, &c.—that, indeed, only a handful of ambitious individuals now remain to be gratified—but that, as for the Catholic poor, artisans, cottagers, peasants, &c. they, forsooth! are not touched by these Penal Laws—and have nothing to gain by their repeal.*

Idle assertions, underrating the severity of Catholic servitude.

And overrating the concession of 1793.

CHAP. III.

*Dangers of
such delusion.*

Ah ! what an egregious error ! What a wicked assertion of those who propagate it, if conscious of its falsehood ! What a fatal delusion, if the honest and the liberal, who may have been seduced by it, shall not awaken to a serious and minute contemplation of the dreadful hostility, with which the Penal Laws at this moment rage against the feelings, the peace, the interests, and the very existence of the Catholic community of Ireland, throughout *all* its various classes—but most emphatically and virulently *against the Catholic poor, the humble and the industrious !*

*The Catholic
poor and indus-
trious, are the
most unprotected
and the most
virulently war-
red against.*

*Each Catholic
Tradesman,
&c. sinks in
the struggle
against the pri-
vileged Pro-
testant : his
power, influ-
ence, &c.*

6. To return to the Cities and corporate towns :—Each Catholic merchant, tradesman, artisan, &c. is engaged in a continual, but ineffectual, struggle against, not only the general severity of the Anti-Catholic system in Ireland, but also the local hardships and vexations heaped upon his lot, in his particular town, under the sanction of Law. He sinks beneath the pressure of these accumulated burthens ; the manifold personal advantages enjoyed by his Protestant fellow-tradesman ; the power and influence of his rival, his opportunities of rendering services or of inflicting injuries ; his superior credit in the town and elsewhere ; greater accommodation for his trade and family ; exemption from tolls ;

preference in beneficial contracts and in the mar-
kets. He may be teased and worried, without
intermission, by numberless sallies of magisterial
caprice, and by the workings of various petty
privileges—which are pushed to their utmost ex-
tent by the jealousy of the Corporation spirit, the
rivalship of low tradesmen, and the asperity of
religious prejudice.

CHAP. III.

Depression of
Catholic mer-
chants, trades-
men, &c.

Whatever may be his wealth, his talent, or
his services, he is uniformly refused a place upon
Grand Juries within those Corporate towns :
and even upon Petty juries, unless when the
duty is arduous, and unconnected with party
interests. He more than doubts of obtaining the
same measure of justice, of favor or respect, from
the mayor, recorder, alderman, tax-gatherer,
public boards, &c. that is accorded to his Pro-
testant neighbour. He lives in continual ap-
prehension, lest he or his family may become ob-
jects of some pecuniary extortion, or victims of
some malicious accusation. Hence he is cringing,
dependant, and almost a suppliant for common
justice.

Excluded from
Juries, &c. &c.Extortion, or
false accusa-
tion impend-
ing.

Thus, the Catholic leads a life resembling that
of the *condemned Jew* ; of no account personally ;
but partially tolerated for the sake of outward
shew ; trampled upon individually : preserved
collectively—for the uses of others ; permitted

Comparison of
the Catholic
condition with
that of the
Jews.

CHAP. III. to practice commerce and agriculture for the
 benefit of public Revenue : gleaning, by conni-
 vance, a little money from arduous enterprizes
 and intense labours, which the happier lot of
 the privileged class enables them to decline : but
 never to be received cordially as a citizen of
 the town, which he enriches, and perhaps main-
 tains.

Comparison
 with the Jews.

Catholic peti-
 tion of 1805.

In fine, it may be truly affirmed (as was com-
 plained in the first Catholic Petition, presented
 to Parliament in 1805 by Mr. Fox) “ That this
 “ Interdiction of the Catholics from all Cor-
 “ porate offices is severely felt by them as an
 “ Evil, not terminating in itself ; for, by giving
 “ advantage over the Catholics to the exclusive
 “ possessors of those situations, it establishes a
 “ species of qualified monopoly, operating uni-
 “ versally in their disfavor ; contrary to the spirit,
 “ and highly detrimental to the freedom, of
 “ Trade.”

Freedom of
 Corporations.

II. *With respect to the Corporate franchise,
 or freedom of cities and towns, as enjoyed by
 Catholics.*

1. The Freemen, or commonalty of
 cities and corporate towns, constitute the ruling
 class in their respective districts. They form the

broad foundation of each Municipal government. **CHAP. III.**
 From this body are elected the Civic magistrates and corporate officers; and, to the freemen and their families are limited all the privileges, exemptions, and benefits, derived under the common charter of Incorporation. Freedom of Corporations.

This freedom is, therefore, of considerable value Its value.
 to a citizen—and especially in three ways, viz.

1. In qualifying him to vote at Elections of In voting at Elections.
 Members to represent the corporation in Parliament; of the Mayor, Aldermen, Common council-men, and other magistrates—and thus vesting in the Freeman a controul over the choice and conduct of the candidates for those situations.

2. In exonerating the Freeman and his In exoneration from Tolls.
 family from the payment of various market tolls and local duties, to which a Non-freeman is subject.

3. In securing to him an indirect monopoly of In monopoly of Trades.
 the exercise of various trades and arts—by the exclusion of such persons as have not served legal apprenticeships.

Now, although there exists no positive Law, directly disqualifying the Catholics from acquiring or enjoying this Freedom, yet they are, indirectly but effectually, excluded from the opportunities of attaining it.

CHAP. III.

Freedom of
Corporations.

This shall be presently demonstrated ; and it will clearly follow, that the present number of Catholic Freemen is necessarily very inconsiderable—and, for various reasons, must continue so.

2. When the Catholics, in 1727, were

Stat. 1. Geo. 2.
ch. 9. Sect. 8.

Catholics ex-
cluded in 1727.

Freedom not
attainable by
Catholics
since that
time.

For what rea-
sons.

Stat. 14 and 15
Cha. 2. 2. 13.
Sec. 6. 7. Wil. 3.
ch. 5. Sect. 8.
8 Anne, ch. 3.
Sect. 37.

No benefit un-
der the Statute
of 1793.

deprived of the right of voting at Elections of Members of Parliament for Cities and towns corporate, and also at the elections of the Civic magistrates, they were stripped of one great inducement to seek the freedom of corporations, as well as of the chief recommendation for obtaining it by Grant. This disability, co-operating with the persecuting spirit of the times, gradually deterred them from soliciting even the imperfect franchise, which remained. It also became more difficult to obtain it. Partial prohibitions were enacted, by Statutes, against taking Catholic apprentices. Consequently, freedom by *service* was rendered less attainable : and, the number of Catholic freemen by *service* being thus circumscribed, those entitled by *birth* decreased in proportion. And, although the rights of voting, which they lost by the statute of 1727, were nominally restored by the Statute of 1793, yet the Catholics have not, in reality, derived any benefit from this restoration. For, the long lapse of Sixty-six years of incapacity having effected a complete exclusion

of the Catholics from Corporations, they were obliged to resort to the third mode of acquiring their freedom—namely, by Grant, or “grace especial,” as it is termed. This power of granting freedom by “grace especial” being, however, vested in the existing members of the Corporations, the exercise of it in favour of Catholics remains suspended by the hostile spirit of the Penal Laws; except, perhaps, in rare and occasional instances, where a Catholic (working, like an Israelite in Algiers, by petty submissions, or by private *douceurs*,) contrives to become a favourite with the proprietor of the Corporation, or with its leading interests.

CHAP. III.

Freedom of Corporations.

Not attainable by Catholics,

Nay, even where a Catholic happens to be legally entitled to his freedom, either by Birth or Service, his admission is generally obstructed. His Petition is not, indeed, directly refused; for, in that case, a *Mandamus* might lie to compel a compliance; but no answer is returned; and the consideration of the subject is adjourned “*sine die*.” This is termed, “cushioning a Petition.”

Their Petitions “cushioned.”

3. In the city of Dublin, for instance, the 24 Guilds or Fraternities comprize, as is supposed, about 2,400 Freemen. Probably not

In Dublin 2400 Freemen.

Not 100 Catholic Freemen.

CHAP. III. 100 of this number are Catholics; and these, though free of their respective Guilds, and capable of voting at Elections of officers within those Guilds, are yet incapable of voting at Elections of Members to serve in Parliament for the city; for they are uniformly "cushioned" when petitioning to be made free of the City at large. The like practice prevails throughout the other Corporations of Ireland.

Freedom of Corporations.

Catholic Petitions "cushioned."

Hence, although no express Law prohibits Catholics from becoming Freemen of cities and towns corporate, yet so many are the obstacles and discouragements in their way, that, in fact and practice, they are almost wholly excluded from this franchise.

Corporate freedom offered to all foreigners, French, Turks, Jews, Atheists, &c.

4. While such is the jealousy of the Law against Catholics, the natives of the Land, possessing talents, industry, property and known integrity—it is curious to observe the unbounded liberality of the Irish Legislature, in holding out inducements to the natives of all other countries, (French, Dutch, Genevese, Turks, Jews, and Atheists) to settle in the cities and towns of Ireland, and accept the Corporate Franchise.

This appears on the face of the Statute book, in various Acts, from 1664 down to 1796.

They commenced by declaring, that "All CHAP. III.
 " *Protestants (strangers and others)* then residing Freedom of Corporations.
 " in or *thereafter coming into*, any city, town, Stat 14 and 15, Cha. 2, ch. 15.
 " &c. shall, upon tender of 20s. fine to the chief
 " magistrate, be admitted freemen, or members
 " any Guild, &c.

" And shall, during residence for the most part,
 " enjoy all the privileges of freemen, and be
 " taken as denizens; *they first taking the oath of* Facility in admitting foreigners to Freedom
 " *supremacy, &c.*

" A penalty of 100*l.* is imposed, by this Sta-
 " tute, upon any chief magistrate refusing to
 " admit such person: and the person so refused
 " may, upon taking these oaths before any
 " neighbouring magistrate, become a freeman,
 " *ipso facto.*"

Here we stop to record a proposition to ex- Parliamentary Debates of Ireland, 4 Feb. 1793-
 tend the benefit of this Act to Catholics, which
 was made, but unsuccessfully, by Mr. Osborne,
 (now Mr. Justice Osborne) in the debate upon
 the Catholic Act of 1793 in the Irish Parliament.
 The proposition was warmly supported by Mr.
 John Bagwell, then a member for the County of
 Tipperary, in the following terms, viz.

" I strongly recommend it to the Right Mr. Bagwell's recommendation in 1793, for granting the freedom of Corporations to Catholics,
 " Hon'ble Secretary (now Earl of Bucking-
 " hamshire) to extend the benefits of this Act
 " of 14 and 15 Charles II. to the Catholics as

CHAP. III. “ well as to the Protestants—and thus to give
 Freedom of “ them a solid and substantial advantage, by
 Corporations. “ relieving them from the heavy and oppressive de-
 Offered to all, “ mand of Tolls, which, on most occasions, ope-
 except Catho- “ rate in opposition to the interest of the indus-
 lics. “ trious citizen.”

4 Geo. 1. ch. 9. The Legislature further extended this premium
 to Protestant foreigners, by a Statute of 1718,
 declaring, that they should be naturalized, and
 exempted from Municipal Offices and taxes for
 seven years.

19 and 20
 Geo. 3. ch. 29. Again, in 1780, they enacted, that all fo-
 reigners, upon taking the oath of supremacy,
 should be deemed naturalized, and exempted
 from serving upon Corporation or parish Offices
 for seven years.

The preamble of this Act curiously exemplifies
 the profession of enlarged policy, united to the
 practice of senseless intolerance. It recites,
 that

Liberal pream-
 ble to an illi-
 beral Statute
 of 1780. “ Whereas the increase of people is a means
 “ of advancing the wealth and strength of any
 “ nation; and whereas many foreigners and
 “ strangers, from the lenity of our Government,
 “ the benefit of our Laws, the advantages of our
 “ trade, the security of our property, and the
 “ consideration of the plentifulness of all sorts of

“ useful and profitable commodities with which
 “ Ireland abounds, might be induced to settle
 “ in this kingdom, *if they were made partakers*
 “ *of the advantages and privileges, which the*
 “ *natural-born subjects of this realm do en-*
 “ *joy, &c.*”

CHAP. III.

Freedom of
Corporations.Ridiculous in-
consistency of
the Irish Le-
gislation.

Strange infatuation! that could avow such ad-
 mirable principles of political wisdom, and yet
 persevere in a religious oppression, disgraceful
 to every sacred name!

In 1784, the Irish Legislature renewed their
 suit to foreign Colonists, by a fresh invitation—
 (with an exception, however, against *Jewish*
 visitors.)

23 and 24
Geo. 3, ch. 58,
51.

But in 1796, they removed the landmark of
 Christianity itself in this respect: for they en-
 acted, that “ *All foreigners of every description,*
 “ *(not excepting Turks, Jews, or Atheists)* shall
 “ become naturalized, liege, and free subjects of
 “ this kingdom, upon settling and taking the
 “ oaths of supremacy, &c.”—that is, upon taking
 Oaths, which all persons whatsoever, whether they
 believe in any Religion or in none, can conscien-
 tiously take—the *Catholics alone excepted.*

36 Geo.3.c.48.

In 1796, Turks,
Jews, and
Atheists, natu-
ralized.But Catholics
not so.

5. Thus are the Cities and towns of
 Ireland peopled and governed: and this is the

CHAP. III.

Freedom of
Corporations.

Principle of
Municipal go-
vernment in
Ireland.

In 1812

system of Municipal legislation, enforced in daily practice against the Catholics. It prefers the foreigner, the outcast, the infidel—to the native Christian. Contrary to the received maxims of all other nations, ancient and modern, the antiquity of a man's family or settlement in the country constitutes his disqualification from trust; the recency of his arrival is his merit. To adhere to the Religion of his ancestors is a crime; to reject all religion is a passport to power. This is the practical wisdom of a *soidisant* tolerant Government.

That this system is just or honourable, or consistent with the spirit of any good Religion, it would be difficult to demonstrate.

“ I cannot conceive,” said Edmund Burke, “ how *any thing worse* can be said of the Protestant Religion of the Church of England than this—that wherever it is judged proper to give it a legal establishment, it becomes necessary to deprive the body of the people, (if they adhere to their old opinions) of their liberties, and of all their free customs; and *reduce them to a state of civil servitude.*”

Civil Servitude
of the people
of Ireland, as
defined by Ed-
mund Burke.

CHAP. IV.

CHAP. IV.

*“ Of the Laws, which deny to the Catholics the
 “ right of being eligible to various Offices,
 “ connected with the Profession and Adminis-
 “ tration of the Laws.”*

1. **BEFORE** we enter into a detail of the many Offices comprehended within this class of prohibition, we hasten to render an honourable homage to the public virtue of the Protestant Bar of Ireland. We can say, with truth and gratitude, that the Protestant Bar have never solicited or favoured the interdiction of Catholics from the profession of the Law, or from advancement to its offices, or indeed from any other right or privilege of the Constitution. To their eternal honour, they have, throughout every discussion of Catholic complaints, uniformly evinced a sincere and active liberality of principle. Even when it was proposed to repeal those clauses of

A Tribute of gratitude, due to the Irish Bar.

Their uniform liberality.

CHAP. IV. the old Penal Laws, which sanctioned Bills of Discovery, and confiscations of Catholic property, and consequently formed the most lucrative branch of professional practice—the Bar of Ireland not only did not oppose or retard the measure, but with manly and memorable zeal stood forward in its support, and cordially contributed to its success.

The generosity
of the Irish
Bar.

Their just
claim upon the
gratitude of
the Catholics.

Indeed, the Members of this honourable profession possess claims of peculiar strength and justice upon the affection and esteem of the Irish People of every description. The Catholics especially, as the most exposed to oppression and injustice, have derived from them the most essential support : and have invariably found a bulwark of protection—almost their only one—in the generous and intrepid advocacy of the Irish Bar.

Enumeration
of Law Offices
&c. interdicted
to Catholics.

2. To the Anti-Catholic code of Laws, therefore, not to any illiberal spirit of monopoly in the Members of this profession, is attributable the class of Exclusion, which we are now to consider—and which comprehends almost every desirable Office in the Profession, or Administration of the Laws. The Offices of this description, to which the Catholics are forbidden to aspire, by the letter of the Statutes, are the following, viz.

Lord High Chancellor, or Keeper, or Commissioner of the Great Seal.....	1	CHAP. IV.
Master or Keeper of the Rolls.....	1	Stat. 2 Eliz. ch. 1. Sect. 7. &c.
Justices of the King's Bench.....	4	2 Anne ch. 6. Sect. 15, 16. 10 Will.3.c.13.
Justices of the Common Pleas	4	21 and 22. Geo. 3. ch. 48. Sect. 3.
Barons of the Exchequer.....	4	31 Geo.3.c. 31.
Attorney and Solicitor General.....	2	33 Geo. 3.c.21. &c. &c. &c.
King's Serjeants at Law	3	
King's Council (present number).....	26	
Masters in Chancery.....	4	Law Offices interdicted.
Chairman of Sessions for the County Dublin.....	1	
Counsel to the Commissioners of Re- venue.....	2	
Recorders of Cities and Towns, about....	60	
Advocates in Spiritual Courts, about....	20	224 Law Offices interdicted to Catholics, by express words.
	132	
Sheriffs of Counties.....	32	
Of Cities and Towns, about.....	20	
Sub-Sheriffs	40	
	Total....224	

To this number may be added 25 Commis-
sioners of Bankruptcy, and 31 Assistant Barris-
ters, or Chairmen of County Sessions: for, al-

Commissioners
of Bankruptcy
25—Assistant
Barristers 31.

CHAP. IV. though the Catholics are not, by the *express Letter*
 of the Law, disabled from holding these Offices,
 yet in practice they are excluded, with scarcely a
 single exception.

Temporal ju-
 dication of
 Ecclesiastical
 Officers.

3. There are, moreover, several other
 Offices of great power and effect in the Adminis-
 tration of the Laws—which, though commonly
 termed Ecclesiastical offices, are yet vested with
 extensive Jurisdiction, in temporal matters, over
 the persons and properties of the Catholics. Of
 this nature are those which decide upon questions
 of Wills of personal property ; Marriage—Tythes,
 and other incidental subjects of moment. Such
 are the Offices of Vicars General of the 26
 dioceses of Ireland, the Court of Delegates, Pre-
 rogative Court, Metropolitan Court, Consistorial
 Courts, &c.

Case of Doctor
 Lynch,
 coram
 Duigenan.

Advocates.

From all offices in these courts, probably 50 in
 number, the Catholics are excluded——nay, they
 are prohibited from practising in them, as Advo-
 cates.

Proctors.

The Proctors in these courts are, apparently,
 subject to the same regulation. Their number in
 Dublin amounts to nine—and, in the country, they
 may be estimated at forty.

Public Notaries.

Public Notaries are marked by the like pro-
 scription, with one or two accidental exceptions.

The exclusion of Catholics from this Office, or faculty, (notwithstanding the Statutes of 1792 and 1793) was indirectly effected in the year 1800. Certain novel regulations for that purpose were framed, by the procurement of Doctor Patrick Duigenan, (who, as the chosen deputy of Doctor William Stuart, Archbishop of Armagh, and Primate of all Ireland,) holds the office of "Master of the Faculties," pursuant to the Statute of 25 Hen. 8—At this day, no prudent Catholic calculates upon the chance of attaining permission for his son to practice this profession.

CHAP. VI.

Public Notaries.

Case of Mr. John Callaghan, Chancery, 1803—7.

The Public Notaries in Ireland amount to about 130 in number.

4. The *consequential operation* of the exclusion of Catholics, from these Offices reaches—
naturally and necessarily, to all the beneficial subordinate situations. Such are those of Registers to Judges, and to Vicars general: Secretaries, Deputies, Court-officers, Clerks of the Crown, Clerks of the Peace, Assistants in the various Law offices, Solicitors and Treasurers to numerous public Boards and establishments, agents, clerks to great public officers, &c. Of all these subordinate, but lucrative, Offices we may reasonably estimate the actual number, as exceeding 1000.

Subordinate
Offices
1000.

CHAP. IV.

Total number
1500 Offices in
the Law.

Thus there appears to be a total number of nearly 1500 offices, connected with the profession and Administration of the Laws—which are interdicted to the Catholics, either by the express Letter, or by the necessary operation of the present Penal Code.

Injury of this
exclusion.

Of the Injury and degradation—which this interdiction inflicts upon the Catholic Body, we need not offer stronger evidence, than the fact of the interdiction itself. *One hundred and sixty* legal offices, of honour and of emolument, are inaccessible to Catholic Barristers, and open to Protestants. *Thirteen hundred* other offices are reserved solely for the ruling class, to the exclusion of Catholic students, solicitors, attornies, clerks, &c.&c.

160 Offices,
interdicted to
Catholic Bar-
risters.

1300 Offices,
interdicted to
Catholic Attor-
nies, clerks,
students, &c.

Mischiefs of
this exclusion.

5. Can it be doubted, that this exclusion must aggrieve the Catholic community at large?—that it intercepts the fair rewards of diligence, and the earnings of cultivated talent—that it circumscribes the opportunities of providing for the children of Catholic families, abridges the means of subsistence, obstructs the paths of Catholic industry, and the hopes of occupation? That all this is unjustifiable, nay almost ridiculous, the soundest Statesmen have repeatedly pronounced.

To Catholic
families,

We shall conclude this Article with the testi- CHAP. IV.
 mony of a Protestant political philosopher, Arch-
 deacon Paley. Testimony of
Arch-deacon
Paley.

“ It has been asserted,” says he, “ that dis-
 cordancy of Religions is enough to render men
 unfit to act together, in public stations. But
 upon what argument, or upon what experience
 is this assertion founded? I perceive no
 reason, why men of different religious per-
 suasions may not sit upon the same Bench,
 deliberate in the same council, or fight in the
 same ranks, as well as men of various or
 opposite opinions upon any controverted
 topic of natural Philosophy, History, or
 Ethics.” Mor. and Polit.
Philos. vol. 2,
ch. 13.
1804.

Paley's opinion

“ Why should not the Legislator direct his
 Test against the political principles which he
 wishes to exclude, rather than encounter them
 through the medium of *religious Tenets*?
 Why should a man, for example, be required
 to renounce Transubstantiation, before he
 is admitted to an Office in the State, when it
 might seem to be sufficient that he abjure the
 Pretender? Mor. and Polit.
Philos.—vol. 2,
ch. 2

CHAP. V.



CHAP. V.

*“ Of the Laws, which disqualify the Catholics
 “ from holding Offices in the Army and Navy,
 “ and obstruct them in exercising their Religion
 “ therein.”*

SECTION I.

Uniformity
 necessary in
 the Military
 Code.

UNTIL the Act of Union, in 1800, the Military and Naval establishments of Ireland had remained distinct and separate from those of Great Britain. They are now incorporated into one—and the chief government and superintendence of the united force are seated in Great Britain. It is manifest, therefore, that the Laws and regulations, which affect its members, ought to be uniform, consistent, and general—not varying with the accidents of place or service. The Army and Navy of the Empire are liable, from their very nature, to frequent changes of station,

The order of distribution, which allots the CHAP. V.
 British or foreign service to a regiment or a False hope
held out to
Catholics.
 ship of war in one year, may render Ireland the
 destined station in the year following; and
 “*vice versa.*” Hence, it must be a nugatory
 system, a pitiful mode of levying armies, that
 would qualify a man for this service in the one
 Island, and disqualify him in the other. To in-
 vite the Catholic in Ireland, for example, to enter
 into the army and navy—by holding out to his
 hopes the prospect of qualified promotion, or any
 other inducement local and limited to Ireland,
 guaranteed solely by an Irish Statute, but denied
 by the Laws of Great Britain—is a proceeding as
 illusory towards the Catholic, as it is unworthy of
 a wise and liberal Legislature.

Now, the Law of England rigidly excludes all Catholics
rigidly exclu-
by Law, in
England.
 Catholics from the right of bearing offices in the
 Army and navy; nay, it inflicts penalties upon any
 Catholics, who shall presume to hold them. The
 Law declares,

“That every person who shall be admitted Engl. Stat.
25 Cha. 2. c.
commonly
called the Test
Act, explained
by 2 Geo. 2. c.
26.
 “into any office, *civil or military*, or shall receive
 “any pay, salary, fee, or wages, by reason of
 “any office or place of trust, or by reason of
 “any patent or grant from his Majesty, shall
 “publicly take the *Oaths of Supremacy*, abjura-

CHAP. V. "tion, &c. and take and subscribe the *Decla-*
 Test Act " *ration* against Transubstantiation, the Mass,
 " &c. and also receive the Sacrament pub-
 " licly according to the usage of the Church
 " of England, within 6 months after his admission,
 " under a penalty of 500*l.* and disability to hold
 " the office."

9 Anne, ch. 6.
 Sect. 18.

33 Geo. 3. ch.
 21. Sect. 9.

A similar Law, but with still heavier penalties, was enacted in Ireland, and remained in full force until 1793, when it was modified by an Irish Statute, as to all military offices—except those of Master or Lieutenant General of the Ordnance, Commander in Chief of the Forces, and Generals on the Staff.

But the disqualifying Laws of Great Britain, upon this subject, remain still in full force, stern and unmitigated.

Incongruity of
 the Military
 system.

2. Hence arises a palpable incongruity in the Military system of this empire—and an effectual repulsion against all Catholics, both in the army and in the navy.

What avails the Irish Statute of 1793 to the Catholic Ensign or Midshipman—if the removal of his regiment or ship from the Irish to the English station renders him subject to the English Test Act, and compels him to abandon the profession of his choice? He has no protection or remedy. The Law, upon which he relied, becomes a dead

letter. This difficulty has been left unprovided for—though certainly not unforeseen. CHAP. V.

The Irish Secretary (Hobart, now Earl of Buckinghamshire) when introducing, on the part of the Crown, the Catholic Bill of 1793 into the Irish Parliament, announced an intended arrangement for removing this difficulty in England.—

Promises made
to the Catho-
lics in 1793;
not fulfilled.

“As to the Army and Navy,” said he, “it is in the contemplation of the *government of England* to admit Roman Catholics to bear commissions in these departments of the state : and measures for the same purpose shall in due time be proposed.”

Irish Parl.
Debates, 1793,
Feb. 4.

The like promise was made by the government, in the Upper House, through the Earl of Clare.—Yet no such measure has been since adopted.

3. This inconsistency of the Military Code was anticipated exultingly, in 1793. As an instance, we shall take an extract from the speech of the well known Patrick Duigenan in opposition to that Bill (with an apology, at the same, to our liberal readers, for citing this man as any authority !) but some persons are often best falsified by their own words.

“If the Irish Law,” said he, which excludes Catholics from all military employments, was to be repealed, *they could reap no advantage from it* ; for the employments in the Navy would

Duigenan's
prediction,
upon the effect
of the Catholic
Bill, of 1793,

CHAP. V. “ be disposed of *to such persons only*, as are qualified to take them by the English Laws—which exclude Catholics.

Irish Parl.
Debates, 1793.

“ The same may be said of *all employments in the Army* ; for they are disposed of by the King.

Duignan's prediction upon the Statute of 1793.

“ If the King shall confer military commissions upon Catholics in such part of his army as are upon the Irish establishment, he will act in direct violation of the English Laws.— And if the Acts, which exclude Catholics from military employments, are to be repealed in Ireland, and Catholics are to be appointed to such employments, *the moment any regiment upon the Irish establishment shall be ordered out of the kingdom, all commissions of Catholics serving therein will be instantly void.*”

This prophecy, pronounced at random, and prompted by the sudden impulse of a blind and bitter spirit, has, however, been literally fulfilled ; owing to the fatality of the public councils being guided by the same intolerance, which dictated this graceless exultation,

Insincerity of the Irish government of 1793.

4. Thus the plausible shew of relief, held out by the Irish Statute of 1793, proves a mere phantom ; an insidious abuse of Catholic

credulity : a lure, merely calculated to decoy CHAP. V.
 Catholics into the Army and Navy. The framers Military De-
coy.
 of it have incurred the imputation of being un-
 candid enough to accept the services of Catho-
 lics thus procured : and unjust and illiberal enough
 to defraud them of the honourable rewards, im-
 pliedly guaranteed to them in Parliament.—
 Such was the spirit of temporising and reluctant
 concession.

It follows—that a prudent Catholic will not Prudent Ca-
tholics may de-
cline the mili-
tary profes-
sion.
 hastily commit his son to the profession of Arms.
 It might be a waste of his time to expend it
 in soliciting the appointment of Midshipman ; and
 a misapplication of his money to invest it in the
 purchase of a commission in the Line. The
 Catholics of Ireland are not so improvident or so
 destitute of shrewdness, as to embrace follies in
 despite of experience : recollecting the memorable
 reply, made in similar circumstances to the
 faithless Patricians of Rome : “ Nunquam Liv. lib. 2.
 “ unum militem daturus, *ni præstaretur fides*
 “ *publica* ; libertatem unicuique prius reddend-
 “ am esse, quam arma danda ; ut *pro patria*
 “ *civibusque*, non pro *Dominis*, pugnent.”

The number of Offices, from which the Catho-
 lics are thus excluded, appears pretty fully from
 the printed lists of the Army and Navy. The

CHAP. V. various regiments of cavalry, infantry, marines, artillery, invalids, the garrisons in Europe and in all the foreign colonies, the various ships of war of all rates and sizes, the dock-yards, store-yards, &c. may be moderately estimated as comprising *twenty thousand* offices, of power or emolument—from which the Catholics are utterly excluded at this day (1811) by the existing Laws of Great Britain.

The Catholics are now disqualified from 20,000 Offices, Naval and Military.

SECTION II

Consequential mischief to Catholics.

Ante, p. 63. &c.

Hostility towards Catholics,

1. *THE Consequential operation* of this exclusion of Catholics from Offices in the Army and Navy has been frequently dwelt upon in Parliament, but cannot be exaggerated. It must render many military and naval officers personally hostile to Catholics—partly from the want of opportunities of society or acquaintance with them, and partly from the very existence of this Exclusion. It inspires them with sentiments of habitual scorn and contempt towards the Catholics; and influences their conduct accordingly,

when on duty. These impressions have been frequently evinced by Generals in command (and particularly on foreign service) whose names can be mentioned. It is quite natural, that inferior officers should adopt the tone, and emulate the practice, of their commanders. In all lucrative appointments within their disposal, or connected with the Army or Navy, they invariably reject the Catholics. The commissaries, agents, contractors, prize-masters, pursers, clerks, treasurers, Medical assistants, purveyors, store-keepers, barrack-masters, garrison officers, &c. &c.—are almost universally Protestants.

CHAP. V.

Mischiefs of
this exclusion.

Subordinate si-
tuations mono-
polized.

2. Hence it is not surprising, that the Catholics—having no relative connection or near friend of any note in the Army or Navy, or profitably connected with the military service—are altogether indifferent about military events. Throughout all their ranks and classes, the *poor as well as the rich*, they are continually occupied in brooding over the melancholy spectacle of their own degraded condition, their wrongs and their sufferings. *Their public feelings are wholly absorbed in the sad contemplation of the evils peculiar to their own condition—and in projecting the means of redress. Neither triumphs nor defeats excite in their minds any lively*

Apathy of the
Catholics
about military
events.

CHAP. V. *emotion, or awaken any earnest attention. They scarcely consider themselves as parties to any War or to any peace—neither elated by victory, nor mourning for disaster.*

SECTION III.

Exercise of Religion checked.

1. NOT only are the Catholics thus excluded from all Offices in the Army or Navy—but even they, who, by chance, or vice, or necessity, have been thrown into the lowest ranks—the common soldiers and sailors—may be obstructed in the free exercise of their Religion, and compelled to conform to an opposite worship.

This grievance, however loudly complained of, is only the necessary consequence of the existing Laws, and of the general Anti-Catholic system.

Freedom of worship equally restrained in Ireland as in England.

The Law upon this subject is precisely the same in Ireland as in England. It is comprized in the annual Mutiny act—the manual of military regulation and government throught ou this Empire.

Stat. 51 Geo. 3.
ch. 8. Sect. 1.

1811.

The Mutiny Act declares, “ That it shall and
“ may be *lawful, to and for his Majesty, to form,*
“ *make, and establish Articles of war, for the*
“ *better government of his Majesty’s forces—which*

*“ articles shall be judicially taken notice of by all
 “ Judges, and in all Courts whatsoever.”*

CHAP. V.
 Restraints
 upon religious
 worship.

The Articles of war made and published in pursuance of this Act, and by its authority, direct, *inter alia,*

*“ That all officers and soldiers, not having just
 “ impediment, shall diligently frequent divine ser-
 “ vice and sermon, in the places appointed for the
 “ assemblage of the regiment, troop or company,
 “ to which they belong :*

Articles of War
 Sect. 1.
 1811.

*“ And that such as wilfully absent themselves,
 “ or, being present, behave indecently or irreve-
 “ rently—shall, if commissioned officers, be brought
 “ before a Court-martial, there to be publicly and
 “ severely reprimanded by the President : if non-
 “ commissioned officers or soldiers, every person so
 “ offending shall, for his first offence, forfeit
 “ twelve pence, to be deducted out of his neat pay :
 “ for the second offence, he shall not only forfeit
 “ twelve pence, but be liad in irons for twelve hours:
 “ and for every like offence shall suffer and pay in
 “ like manner.”*

2. Hence it appears—that, by Law, all officers and soldiers, including Catholics as well as others, are compellable to attend at, and dili-

CHAP. V.

Catholics are
compelled to
frequent Pro-
testant places
of Worship.

gently to frequent, such places as may be appointed for the purposes of divine service and sermon. The places hitherto appointed (except in some instances, confined to Ireland alone) have been places of Protestant worship.

The Protestant officers are not obliged, by any Law, to appoint places of Catholic worship for Catholic soldiers.

Severity of
this restraint.

They are fully authorized to march them to Protestant places of worship, and as often as they please. This arrangement is peculiarly distressing to members of the Catholic communion. *They* are obliged, by their religious tenets, to frequent divine service punctually. “*To assist, devoutly and regularly, at the celebration of Mass, upon every Sunday and holiday throughout the year,*” is one of the six principal commandments of the Catholic Church. This is not a matter of option or convenience, or lightly to be dispensed with. The wilful violation of this injunction is regarded as a heinous sin. Every Catholic is so instructed from his early years. A conscientious Catholic will hesitate much, before he enters upon any profession or pursuit in life, which must necessarily induce the habitual violation of a Religious command—so essential in itself, and so revered by him from his youth. He therefore may, perhaps,

A. D. 1811.

not select the military or naval profession, under the present system of laws and government.

CHAP. V.

Punishment
upon Catholics
in the army and
navy.

For it is manifest, that, whenever he absents himself wilfully from the appointed place of Protestant worship, or refuses to attend there, or frequents a place of Catholic worship contrary to orders (as in Great Britain, Spain, Portugal, &c.) he is liable to severe punishment. He may not only be fined and laid in irons, for twelve hours, as we have seen—but he incurs the ill-will of his commanding officer, and becomes the object of frequent ill-treatment, and harsh personal reproaches. This course frequently provokes the obnoxious Catholic to retort in disrespectful language, and thus involves him in some further act, perhaps punishable by the military code with death.

Exercise of
Religion.

Ante, p. 127.

One of these Articles of War directs,

“ That all crimes, not capital, and *all disorders*
“ *and neglects*, which officers or soldiers may be
“ guilty of, *to the prejudice of good order and*
“ *military discipline*, though not specified in the
“ said rules and articles—are to be taken cogni-
“ zance of by a general or regimental Court-
“ martial, according to the nature and degree
“ of the offence, and *punished at their dis-*
“ *cretion.*”

Art: of War,
Sect. 24. 1811,

CHAP. V.

Effect of the
Articles of
War against
Catholic wor-
ship.

This Article confers upon Courts-martial an authority, unlimited and absolute, of declaring what disobedience shall be considered a *disorder* or *neglect*, or to the *prejudice of good order* or *military discipline*—and of punishing such offence at *their discretion*.

It is easy to perceive, that a firm perseverance in the practice of frequenting Catholic service, or a peremptory refusal to frequent Protestant churches, or to hear the sermons of the regimental chaplains at the drum-head—may be construed as an offence falling within the description of “disorders or neglects, or prejudicial to good order and military discipline, and punished accordingly.”

51 Geo. 3.
ch. 8. Sect. 1

Mutiny Act,
1811.

Moreover, the Mutiny Act itself, by the very first section, directs, “That every officer or soldier, who shall *disobey any lawful command* of his superior officer, shall suffer *death*, or such other punishment as by a Court-martial shall be awarded.”

This enactment places the entire question at the disposal of a Court-martial. There can be no doubt, that an order, directing the Catholic soldiery to frequent Protestant churches, would be deemed a *lawful command*, and that an infraction of it may be punished with death.

3. Under this system, the Catholic CHAP. V.
 Officers and soldiers may be compelled to attend Catholics—
coerced in
their worship.
 personally at the celebration of the Protestant
 worship. They may be forbidden to attend at
 Catholic houses of worship, or to receive spiritual
 assistance from the clergy of their own religion.
 Such have been the regulations: such, fre-
 quently, is the practice. The fact is notorious.
 This coercion has excited universal dissatisfaction Painful to
the Army
 in the army, whether stationed in South America,
 Spain, Portugal, Sicily, Great Britain or Ireland;
 Numberless instances of it have occurred, and
 under every general officer, who has held any com-
 mand. Even the late Sir John Moore, one of the
 most enlightened and estimable men that ever wore
 a sword, was compelled by his instructions to en-
 force this Code, and to refuse permission to Ca-
 tholic clergymen to attend the Catholic soldiers
 of his army in Spain and Portugal.

The like coercion is rigidly applied to the
 Navy. Nothing but Protestantism is there tole-
 rated.

The Irish Statutes of 1792 and 1793 are pro-
 foundly silent respecting any legal enactment,
 securing the appointment of Catholic regimental
 chaplains, or any other provision for the free
 exercise of the Catholic Religion in the army or
 navy.

CHAP. V.

Precarious reliance upon military orders.

In this respect, therefore, the Law of Ireland affords no greater protection than that of England. The Commander in Chief for the time being may, no doubt, issue or recall military orders upon this subject, at his pleasure. But any violation of such orders may easily be connived at, and must be endured. It is not cognizable by the civil courts: it affords no claim to legal relief; no ground for inquiry in a court of Law.

No protection in military courts.

A Military court of inquiry, or Court-martial, may institute or may stifle a remedial proceeding: but the Statute Law of the land provides no redress for the injured and insulted Catholic, who may be prohibited from worshipping his Creator in his own way, or compelled to an outward conformity with ceremonies of worship, which his conscience has been taught to condemn.

Reasoning of a Catholic Soldier or Sailor.

4. Upon this subject, then, the Catholic soldier or sailor is entitled to ask, "Why should any religious test be proposed to me in *either* Country, or what concern have religious differences with military duty?"

How can any man be rendered the worse soldier or sailor, by a proper respect for the quiet and purity of his conscience, or by a decent regard for the religion of his forefathers?

Is it not natural to suppose, that a *disturbed* CHAP. V.
conscience, continual self-reproach, and the un-
steadiness that marks the apostate, are but in-
different preparatives for a service of *fortitude*,
obedience, patience, regularity, and constant
peril?

Whilst, therefore, the Government thinks
proper to persevere in this religious warfare,
would it not be humane, as well as honourable,
to discharge from the service all Catholic
Soldiers and Sailors, and to forbid altogether the
levying or enlisting of any more? For that
system of Legislation must appear somewhat
cruel, nay almost wicked, which compels a man
to *become an apostate, in order to be a soldier*;
to turn his back to his religion, before he can
present his face to an enemy; to abandon the
service of his God, as the only mode of pro-
moting that of his country: and *having re-*
nounced his faith, and forfeited the esteem of
his family, friends, and early acquaintance,
to rush with a self accusing conscience and
reprobate soul, upon dangers, desperate encoun-
ters, and death!!!

Religious re-
straint in the
Army and Navy

Hard condi-
tion of a Catho-
lic Soldier or
Sailor,

Apostacy, re-
probation, &c.

CHAP. VI.



CHAP. VI.

“ Of the Laws, which disqualify the Catholics from holding various other Offices of Trust, Honour, and Emolument—not already classed or enumerated.”

Complete exclusion of the Catholics from all offices.

THESE Laws nearly complete the exclusion of Catholics from all desirable offices and situations. Whatever was not already comprehended by the Laws stated in the foregoing Chapters, whether as to power, patronage, profit or honours, is carefully gleaned together and compiled in this class of proscription. Hence, it is so far from being true, as has been studiously propagated—that there now remain, besides seats in Parliament, only 30 or 40 offices forbidden to the Catholics, that this assertion may with perfect truth be inverted: for in fact, not more than 30 or 40 offices (nay, not so many) are really accessible to Catholics, under the present Laws and spirit of Government.

We shall proceed to our enumeration of the		CHAP. VI.
offices not already classed or specified, viz.		
Lord Lieutenant, Lord Deputy, or other Governor of Ireland.....	1	Stat. 2 Eliz. ch. 1. Sect. 7. 2 Anne, ch. 6. Sect. 15, 16. 10 Wil. 3. c. 13. 21 and 22 Geo. 3. ch. 48. Sect. 3.
Lord High Treasurer, or Lords of Treasury.....	8	33 Geo. 3. c. 21. Sect. 9.
Custodes Rotulorum of Counties.....	32	3 Wil. & Mary, ch. 2. <i>English</i> .
Governors of Counties (present num- ber).....	85	1 Anne, Stat. 1. ch. 12. <i>English</i> .
Privy Counsellors (present number)....	100	
Postmasters General.....	2	
Chancellor of the Exchequer.....	1	
Secretary of State.....	1	261 additional offices, inter- dicted to Ca- tholics.
Vice Treasurer.....	1	
Teller, or Cashier of the Exchequer.....	1	
Keeper of the Privy Seal.....	1	
Auditors General.....	2	
Provost of Dublin University.....	1	
Fellows of the University.....	25	

Offices 261

The foregoing list of Offices and situations of trust, emolument or dignity, from which the Catholics are excluded, by the express *Letter* of the Law, comprizes about 261 in number. These disqualifications, too, have been re-enacted, so recently as in the year 1793. For the

Re-enacted in
1793

CHAP. VI. Irish Legislature of 1793, not deeming the Protestant church establishment sufficiently guarded against the People, by reserving and re-enacting all the disqualifications specified in our preceding chapters—by excluding the Catholics from both Houses of Legislature, from all Offices in the law, in the army or navy, in cities or in corporate towns—deemed it a necessary precaution to exclude them also from these 261 offices.

Irish Parliament of 1793.

Incapacities re-enacted

33 Geo. 3. c. 21. Sect. 9.

This has been effected by the 9th Section of the Catholic Act of 1793: and thus the Law remains.

Subordinate offices forbidden.

Deputies, agents, treasurers, &c.

The Catholics, being thus disqualified from these remaining offices—are consequently excluded from all the subordinate situations dependant upon them: such as those of deputies, secretaries, treasurers, agents, clerks, &c. &c. and all their lucrative and valuable establishments. These are all rigidly Protestant; and their respective preferences, patronage, favour and assistance, incline naturally towards their Protestant friends and connections.

Post Office.

Throughout the entire Post office establishment in Ireland, for instance, consisting of several hundred persons, there is scarcely a single Catholic to be found in a higher situation than that of a common letter-carrier; and few

of even this class. The like may be affirmed of CHAP. VI.
 the Stamp-office, Bank of Ireland, and the other General exclu-
 sion from offi-
 ces.
 public boards and establishments of Ireland. Yet
 the far greater proportion of their salaries and
 emoluments is extracted from the labours, the
 industry, and the contributions of Catholics.

3. In a word, this unrelenting System This system
 unjustifiable.
 of exclusion can neither be justified upon any
 principle of right, nor palliated by any shew of de-
 cency. It abounds in irrational contradictions and
 ludicrous inconsistency. That much of it proceeded
 from the personal caprice of the Legislators of 1793,
 or the reluctance and ill-humour, with which
 they then conceded any relief to the Catholics,
 has been frequently alleged—and probably with
 truth. This may be the reproach of that Legis-
 lature, but not an argument against amendment.
 It may account for their conduct, but cannot be re-
 ceived as their vindication at the tribunal of
 Reason. On the contrary, it furnishes a strong
 proof, amongst many others, that the Statute of Imperfection
 of the Statute
 of 1793.
 1793 was really an unfinished work, and *stu-
 diously left defective*: and that, therefore, a
 thorough revisal of it becomes annually more
 and more reasonable, and necessary to the quiet
 and welfare of Ireland.

CHAP. VI.

SECTION II.

Disqualification from Office—a serious Punishment.

Substance of
the preceding
Statement.

1. WE have now stated the Laws, which exclude the Catholics from the Legislature, from all offices and situations of trust, honour, or emolument, in Corporate cities and towns, in the Army, Navy, Profession and Administration of the Laws, and various other offices and situations in this country.

Importance of
these disquali-
fications.

These incapacities and disabilities, though treated with levity in the discussion of Catholic Petitions, have never been viewed by the Laws as matters of indifference.

We find the gravest lawyers, and the ablest statesmen, agreed in estimating their magnitude and importance.

Smith, v. Read,
Bac : Abridg :
v. 5. 282.

Lord Hard-
wicke.

Lord Chancellor Hardwicke, perhaps the most eminent Lawyer of modern times, treated these incapacities and disabilities, as penalties of the severest nature.

House of Peers

Lord Somers,

In the memorable conference between the Houses of peers and commons of England, respecting the Occasional conformity Bill, the managers of the former house (amongst whom

wasthe great Lord Somers) solemnly declared— **CHAP. VI,**
 “that an honest man cannot be reduced to a
 “more unhappy condition, than to be put, by
 “Law, under an incapacity of serving his Prince
 “and his country; and that therefore, nothing,
 “but a crime of the most detestable nature,
 “ought to put him under such a disability.”

Chandler's
 Parl: Deb:
 Vol. 3. p. 220.
 5.

Importance of
 these disquali-
 fications,

2. Accordingly, *Disqualification from office* is a punishment, which has generally been directed against crimes of gross profligacy and turpitude only. The Statute of 11 Henry, 4. has attached it to “*Extortion in public officers, bribery—corruption in the purchase and Sale of offices, &c.*” It has also been visited upon him, who “openly apostatizes, or renounces Christianity—or commits peculation or breach of trust, as a Member of Parliament—and other *majora crimina.*” In such cases, the offender, in the emphatic words of the Statutes, is incapacitated, *as if he were dead.* Even the crime of perjury is not deemed vile or heinous enough to be thus punished.

Severity of this
 punishment.

Hawkins' Pleas
 of the Crown.

Yet the Catholics of Ireland, struggling and remonstrating against punishments so linked with infamy, are cruelly derided and hunted down, as if consulting together *under pretence*, not for the *real purpose*, of preparing their complaints and Petitions.

CHAP. VI.

Injustice and
severity of this
punishment.

Respect, due
to the Catholic
Religion.

Bishop of
Down's pane-
gyric upon the
Catholic Reli-
gion.

3. This ungenerous treatment is the more unwarrantable, since it is grounded upon a glaring violation of the rights of private conscience, ingratitude towards meritorious citizens, and insulting reproach against the principles of the Catholic Religion. Be it recollected, too, that the Religion which has provoked these severities, has been during fourteen centuries the religion of the Irish People—that it prevailed in Great Britain during the most glorious period of its history—that it is steadfastly maintained at this day by the majority of Christians—and zealously so, by the most faithful and useful allies of the British empire. So magnificent and venerable a system of worship—ought a free and enlightened nation to vilify it with all the opprobrium of language, and to persecute it with all the refinements of torture? A Religion, too, which has received even from the most eminent Divines of the Protestant church, frequent and eloquent tributes of respect, and reluctant eulogium. Let us hear, for instance, the testimony of an Irish Protestant Bishop of Down, in 1647; a prelate of no lukewarm zeal, and of no mean talent, in support of the established Religion, its rights and reputation.

“The members of the Roman Catholic communion may say, that their religion was *that of*

“ *their forefathers*, and had the actual possession
 “ of men’s minds before the opposite opinions
 “ had *even a name*—that, having continued it
 “ through such a length of time, it would be
 “ objected to them with an ill grace, that this
 “ was the effect of invention or design ; because
 “ it was not likely that all ages should have
 “ the same purposes, or that the same doctrine
 “ should serve the different ends of several ages.
 “ This prescription, moreover, rests upon the
 “ grounds, that *truth is more ancient than false-*
 “ *hood* : and that *God would not, for so many*
 “ *ages, have forsaken his Church*, and left her
 “ in error.”

CHAP. VI.
 Sermon on the
 liberty of Pro-
 phesying, by
 Dr. Jeremy
 Taylor, the
 Protestant Bi-
 shop of Down,
 1647.

Panegyric up-
 on the Catho-
 lic Religion—
 by an Irish
 Protestant Bi-
 shop.

“ To this antiquity of doctrine is annexed
 “ an uninterrupted succession of their Bishops
 “ from the Apostles ; and particularly of their su-
 “ preme Bishop St. Peter, whose personal pre-
 “ rogatives were so great ; and the advanta-
 “ geous manner, in which many eminent Pre-
 “ lates of other Sees have expressed themselves
 “ with regard to the Church of Rome. This
 “ prerogative includes the advantages of Mo-
 “ narchy, and the constant benefits which are
 “ derived from that form of government.”

Apology for the
 feelings of
 pride and at-
 tachment,
 which bind the
 Catholics of
 Ireland to their
 religion.

“ Nor does the multitude and variety of people
 “ who are of this persuasion, their apparent con-
 “ sent with elder ages, and their agreement with

CHAP. VI. "one another, form a less presumption in their

Panegyric up-
on the Catho-
lic religion—
by the Irish
Protestant Bi-
shop of Down.

"favour. The same conclusion must be inferred

"from the differences, which have risen amongst

"their adversaries—the casualties which have

"happened to many of them—the oblique and

"sinister proceedings of some, who have left

"their communion."

"To these negative arguments the Catholic

"adds those of a more positive kind; the beau-

"ty and splendour of the Church of Rome

"her solemn service; the stateliness and mag-

"nificence of her hierarchy; and the name of

"CATHOLIC," which she claims as her own

"due, and to concern no other sect of Christia-

"nity. It has been their happiness to be in-

"strumental to the conversion of many nations.

"The world is witness to the piety and aus-

"terity of their religious orders; to the sin-

Merits of the
Catholic Cler-
gy, &c.

"gle life of their Priests and Bishops; the se-

"verity of their fasts and observances; the great

"reputation of many of their Clergy for faith

"and sanctity—and the known holiness of some

"of those persons, whose institutes the Religious

"orders follow."

END

OF THE FIRST PART.

Scully, Denys

A statement of the penal laws, which aggrieve the Catholics of Ireland
with commentaries

Bd.: 1

Dublin 1812

Crim. 241 k-1/2

urn:nbn:de:bvb:12-bsb10395498-9